CANADA

DEBATES OF THE SENATE

OFFICIAL REPORT
(HANSARD)

THE HONOURABLE RENAUDE LAPOINTE
SPEAKER

1974-75-76
FIRST SESSION, THIRTIETH PARLIAMENT
23-24-25 ELIZABETH II

Volume III

(February 3, 1976 to October 12, 1976)

Parliament was opened on September 30, 1974
and was prorogued on October 12, 1976

Queen's Printer for Canada, Ottawa

The Speaker

THE HONOURABLE RENAUDE LAPOINTE

The Leader of the Government

THE HONOURABLE RAYMOND J. PERRAULT, P.C.

The Leader of the Opposition

THE HONOURABLE JACQUES FLYNN, P.C.

THE MINISTRY

According to Precedence

At Prorogation, October 12, 1976

The Right Honourable Pierre Elliott Trudeau	Prime Minister
The Honourable Allan Joseph MacEachen	President of the Queen's Privy Council for Canada
The Honourable Jean Chrétien	Minister of Industry, Trade and Commerce
The Honourable Donald Stovel Macdonald	Minister of Finance
The Honourable John Carr Munro	Minister of Labour
The Honourable Stanley Ronald Basford	Minister of Justice and Attorney General of Canada
The Honourable Donald Campbell Jamieson	Secretary of State for External Affairs
The Honourable Robert Knight Andras	President of the Treasury Board
The Honourable James Richardson	Minister of National Defence
The Honourable Otto Emil Lang	Minister of Transport
The Honourable Jean-Pierre Goyer	Minister of Supply and Services
The Honourable Alastair William Gillespie	Minister of Energy, Mines and Resources
The Honourable Eugene Francis Whelan	Minister of Agriculture
The Honourable W. Warren Allmand	Minister of Indian Affairs and Northern Development
The Honourable James Hugh Faulkner	Minister of State for Science and Technology
The Honourable Daniel Joseph MacDonald	Minister of Veterans Affairs
The Honourable Marc Lalonde	Minister of National Health and Welfare
The Honourable Jeanne Sauvé	Minister of Communications
The Honourable Raymond Joseph Perrault	Leader of the Government in the Senate
The Honourable Barnett Jerome Danson	Minister of State for Urban Affairs
The Honourable J. Judd Buchanan	Minister of Public Works
The Honourable Roméo LeBlanc	Minister of Fisheries and the Environment
The Honourable Marcel Lessard	Minister of Regional Economic Expansion
The Honourable Jack Sydney George Cullen	Minister of Manpower and Immigration
The Honourable Leonard Stephen Marchand	Minister of State (Small Businesses)
The Honourable John Roberts	Secretary of State of Canada
The Honourable Monique Bégin	Minister of National Revenue
The Honourable Jean-Jacques Blais	Postmaster General
The Honourable Francis Fox	Solicitor General of Canada
The Honourable Anthony Chisholm Abbott	Minister of Consumer and Corporate Affairs
The Honourable Iona Campagnolo	Minister of State (Fitness and Amateur Sport)

SENATORS OF CANADA

ACCORDING TO SENIORITY

At Prorogation, October 12, 1976

Senators	Designation	Post Office Address
THE HONOURABLE		
Salter Adrian Hayden	Toronto	Toronto, Ont.
Norman McLeod Paterson	Thunder Bay	Thunder Bay, Ont.
George Percival Burchill	Northumberland-Miramichi	Nelson-Miramichi, N.B.
Michael G. Basha	West Coast	Curling, Nfld.
Sarto Fournier	de Lanaudière	Montreal, Que.
John J. Connolly, P.C.	Ottawa West	Ottawa, Ont.
Donald Cameron	Banff	Banff, Alta.
David A. Croll	Toronto-Spadina	Toronto, Ont.
Fred A. McGrand	Sunbury	Fredericton Junction, N.B.
Donald Smith	Queens-Shelburne	Liverpool, N.S.
Harold Connolly	Halifax North	Halifax, N.S.
Florence Elsie Inman	Murray Harbour	Montague, P.E.I.
Hartland de Montarville Molson	Alma	Montreal, Que.
J. Eugène Lefrançois	Repentigny	Montreal, Que.
Joseph A. Sullivan	North York	Toronto, Ont.
Lionel Choquette	Ottawa East	Ottawa, Ont.
Frederick Murray Blois	Colchester-Hants	Truro, N.S.
John Michael Macdonald	Cape Breton	North Sydney, N.S.
Josie Alice Dinan Quart	Victoria	Quebec, Que.
Louis Philippe Beaubien	Bedford	Montreal, Que.
J. Campbell Haig	River Heights	Winnipeg, Man.
Allister Grosart	Pickering	Toronto, Ont.
Edgar Fournier	Madawaska-Restigouche	Iroquois, N.B.
Jacques Flynn, P.C.	Rougemont	Quebec, Que.
David James Walker, P.C.	Toronto	Toronto, Ont.
Rhéal Bélisle	Sudbury	Sudbury, Ont.
Paul Yuzyk	Fort Garry	Winnipeg, Man.
Orville Howard Phillips	Prince	Alberton, P.E.I.
Maurice Bourget, P.C.	The Laurentides	Lévis, Que.
Azellus Denis, P.C.	La Salle	Montreal, Que.
Eric Cook	Harbour Grace	St. John's, Nfld.
Daniel Aiken Lang	South York	Toronto, Ont.
William Moore Benidickson, P.C.	Kenora-Rainy River	Kenora, Ont.
Alexander Hamilton McDonald	Moosomin	Moosomin, Sask.
Earl Adam Hastings	Palliser-Foothills	Calgary, Alta.
Harry William Hays, P.C.	Calgary	Calgary, Alta.
Charles Robert McElman	Nashwaak Valley	Fredericton, N.B.
Douglas Keith Davey	York	Don Mills, Ont.
Jean-Paul Deschatelets, P.C.	Lauzon	Montreal, Que.
Hazen Robert Argue	Regina	Kayville, Sask.
Alan Aylesworth Macnaughton, P.C.	Sorel	Montreal, Que.
J. G. Léopold Langlois	Grandville	Quebec, Que.
Paul Desruisseaux	Wellington	Sherbrooke, Que.
Chesley William Carter	The Grand Banks	St. John's, Nfld.
James Duggan	Avalon	St. John's, Nfld.
Douglas Donald Everett	Fort Rouge	Winnipeg, Man.
Maurice Lamontagne, P.C.	Inkerman	Aylmer, Que.
Andrew Ernest Thompson	Dovercourt	Kendal, Ont.

Senators	Designation	Post Office Address
THE HONOURABLE		
Keith Laird	Windsor	Windsor, Ont.
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Richard James Stanbury	York Centre	Toronto, Ont.
Hervé J. Michaud	Kent	Buctouche, N.B.
William John Petten	Bonavista	St. John's, Nfld.
Raymond Eudes	de Lorimier	Montreal, Que.
Louis de Gonzague Giguère	de la Durantaye	Montreal, Que.
Ernest C. Manning, P.C.	Edmonton West	Edmonton, Alta.
Gildas L. Molgat	Ste. Rose	St. Vital, Man.
Eugene A. Forsey	Nepean	Ottawa, Ont.
William C. McNamara	Winnipeg	Winnipeg, Man.
Paul C. Lafond	Gulf	Hull, Que.
Ann Elizabeth Haddon Bell	Nanaimo-Malaspina	Nanaimo, B.C.
Edward M. Lawson	Vancouver	Vancouver, B.C.
H. Carl Goldenberg	Rigaud	Westmount, Que.
George Clifford van Roggen	Vancouver-Point Grey	Vancouver, B.C.
Sidney L. Buckwold	Saskatoon	Saskatoon, Sask.
Renaude Lapointe (Speaker)	Mille Isles	Montreal, Que.
Mark Lorne Bonnell	Murray River	Murray River, P.E.I.
Guy Williams	Richmond	Richmond, B.C.
Michel Fournier	Restigouche-Gloucester	Pointe Verte, N.B.
Frederick William Rowe	Lewisporte	St. John's, Nfld.
George James McIlraith, P.C.	Ottawa Valley	Ottawa, Ont.
Margaret Norrie	Colchester-Cumberland	Truro, N.S.
Henry D. Hicks	The Annapolis Valley	Halifax, N.S.
Bernard Alasdair Graham	The Highlands	Sydney, N.S.
Martial Asselin, P.C.	Stadacona	La Malbaie, Que.
John James Greene, P.C.	Niagara	Niagara Falls, Ont.
Joseph Julien Jean-Pierre Côté, P.C.	Kennebec	Longueuil, Que.
Joan Neiman	Peel	Caledon East, Ont.
Raymond J. Perrault, P.C.	North Shore-Burnaby	Vancouver, B.C.
John Morrow Godfrey	Rosedale	Toronto, Ont.
Maurice Riel	Shawinigan	Westmount, Que.
Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint John, N.B.
Daniel Riley	Saint John	Saint John West, N.B.
Augustus Irvine Barrow	Halifax-Dartmouth	Halifax, N.S.
Ernest George Cottreau	South Western Nova	Yarmouth, N.S.
George Isaac Smith	Colchester	Truro, N.S.
Jack Austin	Vancouver South	Vancouver, B.C.
Paul Henry Lucier	Yukon	Whitehorse, Yukon.

NOTE: For names of senators who resigned, retired, or died during the First Session of the Thirtieth Parliament, see Index.

SENATORS OF CANADA

ALPHABETICAL LIST

At Prorogation, October 12, 1976

Senators	Designation	Post Office Address
THE HONOURABLE		
Argue, Hazen	Regina	Kayville, Sask.
Asselin, Martial, P.C.	Stadacona	La Malbaie, Que.
Austin, Jack	Vancouver South	Vancouver, B.C.
Barrow, Augustus Irvine	Halifax-Dartmouth	Halifax, N.S.
Basha, Michael G.	West Coast	Curling, Nfld.
Beaubien, L. P.	Bedford	Montreal, Que.
Bélisle, Rhéal	Sudbury	Sudbury, Ont.
Bell, A. E. Haddon	Nanaimo-Malaspina	Nanaimo, B.C.
Benidickson, W. M., P.C.	Kenora-Rainy River	Kenora, Ont.
Blois, Fred M.	Colchester-Hants	Truro, N.S.
Bonnell, M. Lorne	Murray River	Murray River, P.E.I.
Bourget, Maurice, P.C.	The Laurentides	Lévis, Que.
Buckwold, Sidney L.	Saskatoon	Saskatoon, Sask.
Burchill, G. Percival	Northumberland-Miramichi	Nelson-Miramichi, N.B.
Cameron, Donald	Banff	Banff, Alta.
Carter, Chesley W.	The Grand Banks	St. John's, Nfld.
Choquette, Lionel	Ottawa East	Ottawa, Ont.
Connolly, Harold	Halifax North	Halifax, N.S.
Connolly, John J., P.C.	Ottawa West	Ottawa, Ont.
Cook, Eric	Harbour Grace	St. John's, Nfld.
Côté, Joseph Julien Jean-Pierre, P.C.	Kennebec	Longueuil, Que.
Cottreau, Ernest G.	South Western Nova	Yarmouth, N.S.
Croll, David A.	Toronto-Spadina	Toronto, Ont.
Davey, Keith	York	Don Mills, Ont.
Denis, Azellus, P.C.	La Salle	Montreal, Que.
Deschatelets, Jean-Paul, P.C.	Lauzon	Montreal, Que.
Desruisseaux, Paul	Wellington	Sherbrooke, Que.
Duggan, James	Avalon	St. John's, Nfld.
Eudes, Raymond	de Lorimier	Montreal, Que.
Everett, Douglas D.	Fort Rouge	Winnipeg, Man.
Flynn, Jacques, P.C.	Rougemont	Quebec, Que.
Forsey, Eugene A.	Nepean	Ottawa, Ont.
Fournier, Edgar	Madawaska-Restigouche	Iroquois, N.B.
Fournier, Michel	Restigouche-Gloucester	Pointe Verte, N.B.
Fournier, Sarto	de Lanaudière	Montreal, Que.
Giguère, Louis de G.	de la Durantaye	Montreal, Que.
Godfrey, John Morrow	Rosedale	Toronto, Ont.
Goldenberg, H. Carl	Rigaud	Westmount, Que.
Graham, Bernard Alasdair	The Highlands	Sydney, N.S.
Greene, John James, P.C.	Niagara	Niagara Falls, Ont.
Grosart, Allister	Pickering	Toronto, Ont.
Haig, J. Campbell	River Heights	Winnipeg, Man.
Hastings, Earl A.	Palliser-Foothills	Calgary, Alta.
Hayden, Salter A.	Toronto	Toronto, Ont.
Hays, Harry, P.C.	Calgary	Calgary, Alta.
Hicks, Henry D.	The Annapolis Valley	Halifax, N.S.
Inman, F. Elsie	Murray Harbour	Montague, P.E.I.
Lafond, Paul C.	Gulf	Hull, Que.

Senators	Designation	Post Office Address
THE HONOURABLE		
Laird, Keith	Windsor	Windsor, Ont.
Lamontagne, Maurice, P.C.	Inkerman	Aylmer, Que.
Lang, Daniel A.	South York	Toronto, Ont.
Langlois, Léopold	Grandville	Quebec, Que.
Lapointe, Renaude (Speaker)	Mille Isles	Montreal, Que.
Lawson, Edward M.	Vancouver	Vancouver, B.C.
Lefrançois, J. Eugène	Repentigny	Montreal, Que.
Lucier, Paul Henry	Yukon	Whitehorse, Yukon.
Macdonald, John M.	Cape Breton	North Sydney, N.S.
Macnaughton, Alan A., P.C.	Sorel	Montreal, Que.
Manning, Ernest C., P.C.	Edmonton West	Edmonton, Alta.
McDonald, A. Hamilton	Moosomin	Moosomin, Sask.
McElman, Charles	Nashwaak Valley	Fredericton, N.B.
McGrand, Fred A.	Sunbury	Fredericton Junction, N.B.
McIlraith, George J., P.C.	Ottawa Valley	Ottawa, Ont.
McNamara, William C.	Winnipeg	Winnipeg, Man.
Michaud, Hervé J.	Kent	Buctouche, N.B.
Molgat, Gildas L.	Ste. Rose	St. Vital, Man.
Molson, Hartland de M.	Alma	Montreal, Que.
Neiman, Joan	Peel	Caledon East, Ont.
Norrie, Margaret	Colchester-Cumberland	Truro, N.S.
Paterson, Norman McL	Thunder Bay	Thunder Bay, Ont.
Perrault, Raymond J., P.C.	North Shore-Burnaby	Vancouver, B.C.
Petten, William J.	Bonavista	St. John's, Nfld.
Phillips, Orville H.	Prince	Alberton, P.E.I.
Quart, Josie D.	Victoria	Quebec, Que.
Riel, Maurice	Shawinigan	Westmount, Que.
Riley, Daniel	Saint John	Saint John West, N.B.
Robichaud, Louis-J., P.C.	L'Acadie-Acadia	Saint John, N.B.
Rowe, Frederick William	Lewisporte	St. John's, Nfld.
Smith, Donald	Queens-Shelburne	Liverpool, N.S.
Smith, George I.	Colchester	Truro, N.S.
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.
Stanbury, Richard J.	York Centre	Toronto, Ont.
Sullivan, Joseph A.	North York	Toronto, Ont.
Thompson, Andrew	Dovercourt	Kendal, Ont.
van Roggen, George	Vancouver-Point Grey	Vancouver, B.C.
Walker, David, P.C.	Toronto	Toronto, Ont.
Williams, Guy	Richmond	Richmond, B.C.
Yuzyk, Paul	Fort Garry	Winnipeg, Man.

SENATORS OF CANADA

BY PROVINCES

At Prorogation, October 12, 1976

ONTARIO—24

	Senators	Designation	Post Office Address
	THE HONOURABLE		
1	Salter Adrian Hayden	Toronto	Toronto.
2	Norman McLeod Paterson	Thunder Bay	Thunder Bay.
3	John J. Connolly, P.C.	Ottawa West	Ottawa.
4	David A. Croll	Toronto-Spadina	Toronto.
5	Joseph A. Sullivan	North York	Toronto.
6	Lionel Choquette	Ottawa East	Ottawa.
7	Allister Grosart	Pickering	Toronto.
8	David James Walker, P.C.	Toronto	Toronto.
9	Rhéal Bélisle	Sudbury	Sudbury.
10	Daniel Aiken Lang	South York	Toronto.
11	William Moore Benidickson, P.C.	Kenora-Rainy River	Kenora.
12	Douglas Keith Davey	York	Don Mills.
13	Andrew Ernest Thompson	Dovercourt	Kendal.
14	Keith Laird	Windsor	Windsor.
15	Richard James Stanbury	York Centre	Toronto.
16	Eugene A. Forsey	Nepean	Ottawa.
17	George James McIlraith, P.C.	Ottawa Valley	Ottawa.
18	John James Greene, P.C.	Niagara	Niagara Falls.
19	Joan Neiman	Peel	Caledon East.
20	John Morrow Godfrey	Rosedale	Toronto.
21			
22			
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QUEBEC—24

	Senators	Electoral Division	Post Office Address
	THE HONOURABLE		
1	Sarto Fournier	de Lanaudière	Montreal.
2	Hartland de Montarville Molson	Alma	Montreal.
3	J. Eugène Lefrançois	Repentigny	Montreal.
4	Josie Alice Dinan Quart	Victoria	Quebec.
5	Louis Philippe Beaubien	Bedford	Montreal.
6	Jacques Flynn, P.C.	Rougemont	Quebec.
7	Maurice Bourget, P.C.	The Laurentides	Lévis.
8	Azellus Denis, P.C.	La Salle	Montreal.
9	Jean-Paul Deschatelets, P.C.	Lauzon	Montreal.
10	Alan Aylesworth Macnaughton, P.C.	Sorel	Montreal.
11	J. G. Léopold Langlois	Grandville	Quebec.
12	Paul Desruisseaux	Wellington	Sherbrooke.
13	Maurice Lamontagne, P.C.	Inkerman	Aylmer.
14	Raymond Eudes	de Lorimier	Montreal.
15	Louis de Gonzague Giguère	de la Durantaye	Montreal.
16	Paul C. Lafond	Gulf	Hull.
17	H. Carl Goldenberg	Rigaud	Westmount.
18	Renaude Lapointe (Speaker)	Mille Isles	Montreal.
19	Martial Asselin, P.C.	Stadacona	La Malbaie.
20	Joseph Julien Jean-Pierre Côté, P.C.	Kennebec	Longueuil.
21	Maurice Riel	Shawinigan	Westmount.
22			
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NOVA SCOTIA—10

	Senators	Designation	Post Office Address
	THE HONOURABLE		
1	Donald Smith	Queens-Shelburne	Liverpool.
2	Harold Connolly	Halifax North	Halifax.
3	Frederick Murray Blois	Colchester-Hants	Truro.
4	John Michael Macdonald	Cape Breton	North Sydney.
5	Margaret Norrie	Colchester-Cumberland	Truro.
6	Henry D. Hicks	The Annapolis Valley	Halifax.
7	Bernard Alasdair Graham	The Highlands	Sydney.
8	Augustus Irvine Barrow	Halifax-Dartmouth	Halifax.
9	Ernest George Cottreau	South Western Nova	Yarmouth.
10	George Isaac Smith	Colchester	Truro.

NEW BRUNSWICK—10

	THE HONOURABLE		
1	George Percival Burchill	Northumberland-Miramichi	Nelson-Miramichi.
2	Fred A. McGrand	Sunbury	Fredericton Junction.
3	Edgar Fournier	Madawaska-Restigouche	Iroquois.
4	Charles Robert McElman	Nashwaak Valley	Fredericton.
5	Hervé J. Michaud	Kent	Buctouche.
6	Michel Fournier	Restigouche-Gloucester	Pointe Verte.
7	Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint John.
8	Daniel Riley	Saint John	Saint John West.
9			
10			

PRINCE EDWARD ISLAND—4

	THE HONOURABLE		
1	Florence Elsie Inman	Murray Harbour	Montague.
2	Orville Howard Phillips	Prince	Alberton.
3	Mark Lorne Bonnell	Murray River	Murray River.
4			

MANITOBA—6

	Senators	Designation	Post Office Address
	THE HONOURABLE		
1	J. Campbell Haig	River Heights	Winnipeg.
2	Paul Yuzyk	Fort Garry	Winnipeg.
3	Douglas Donald Everett	Fort Rouge	Winnipeg.
4	Gildas L. Molgat	Ste. Rose	St. Vital.
5	William C. McNamara	Winnipeg	Winnipeg.
6			

BRITISH COLUMBIA—6

	THE HONOURABLE		
1	Ann Elizabeth Haddon Bell	Nanaimo-Malaspina	Nanaimo.
2	Edward M. Lawson	Vancouver	Vancouver.
3	George Clifford van Roggen	Vancouver-Point Grey	Vancouver.
4	Guy Williams	Richmond	Richmond.
5	Raymond J. Perrault, P.C.	North Shore-Burnaby	Vancouver.
6	Jack Austin	Vancouver South	Vancouver.

SASKATCHEWAN—6

	THE HONOURABLE		
1	Alexander Hamilton McDonald	Moosomin	Moosomin.
2	Hazen Robert Argue	Regina	Kayville.
3	Herbert O. Sparrow	Saskatchewan	North Battleford.
4	Sidney L. Buckwold	Saskatoon	Saskatoon.
5			
6			

ALBERTA—6

	THE HONOURABLE		
1	Donald Cameron	Banff	Banff.
2	Earl Adam Hastings	Palliser-Foothills	Calgary.
3	Harry William Hays, P.C.	Calgary	Calgary.
4	Ernest C. Manning, P.C.	Edmonton West	Edmonton.
5			
6			

NEWFOUNDLAND—6

	Senators	Designation	Post Office Address
	THE HONOURABLE		
1	Michael G. Basha	West Coast	Curling.
2	Eric Cook	Harbour Grace	St. John's.
3	Chesley William Carter	The Grand Banks	St. John's.
4	James Duggan	Avalon	St. John's.
5	William John Petten	Bonavista	St. John's.
6	Frederick William Rowe	Lewisporte	St. John's.

NORTHWEST TERRITORIES—1

	THE HONOURABLE		
1	.....	.....	.....

YUKON—1

	THE HONOURABLE		
1	Paul Henry Lucier	Yukon	Whitehorse.

THE SENATE

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Chief of Minutes and Journals (French)	Miss Madeleine Ouimet
Assistant Gentleman Usher of the Black Rod	
Postmaster	Harold King
Supervisor of Secretarial Service (English)	Mrs. Josephine Barnwell
Supervisor of Secretarial Service (Bilingual)	Mrs. Jocelyne Latrémouille
Chief of Joint Distribution Office	J. E. Levesque
Chief of Protective Service	W. Maheux
Manager of Parliamentary Restaurant	W. Pentecost

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THE SENATE

Tuesday, February 3, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE LOUIS P. GÉLINAS

TRIBUTES

Hon. Raymond J. Perrault: Honourable senators, it is good to see so many honourable senators back here, apparently in good health and rested, ready to resume their duties and responsibilities.

However, all of us were saddened to learn of the death in Montreal on New Year's Day of the Honourable Louis-Philippe Gélinas. Senator Gélinas, who was in failing health, had resigned his place in the Senate on December 10 last, as honourable senators are aware, but word of his resignation did not reach us until after the adjournment on December 20.

Senator Gélinas was one of the most distinguished and esteemed members of this chamber. He was born, educated and lived all his life in Montreal, the city he loved. He was a leading figure in the realm of finance, business and public life. Endowed with remarkable financial acumen and business motivation, he was the sole Canadian to sit as a director of the First National City Trust of New York. He was a gentleman of the old school, with great personal charm and a wide circle of friends. A humanitarian, he involved himself in a great number of charitable campaigns of which he was the moving spirit.

Senator Gélinas was a philanthropist interested in all worthy causes. He was a governor of the Montreal General Hospital and l'Hôpital Notre Dame, as well as of the Montreal Symphony Orchestra and the Montreal Museum of Fine Arts.

During World War II, Wing Commander Gélinas served with the Royal Canadian Air Force in Canada and overseas. He was awarded the decoration of Member of the British Empire. He also held the Czechoslovakia Medal of Merit. He was a man for all seasons, a gentle man, kind of heart and noble of spirit. He served his community, his province and his country faithfully and well.

To his wife, his son and the members of his family we extend our deepest and most heartfelt sympathy.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, it is superfluous for me to say that I share the sorrows expressed by the Leader of the Government on the occasion of the death of our colleague, Louis Philippe Gélinas. Indeed you all know that for him I had admiration, friendship and respect.

In Senator Gélinas I admired that type of gentleman which we used to meet more often in the past and which seems to be rarer nowadays, possibly because of the coming of the "new society" the Prime Minister promises us.

Always well dressed, always reserved, he really reminded us of the good old days when private enterprise was honourable and personal success in business never gave rise to suspicion.

I met him a very long time ago, but it is only since he came to the Senate that I really had the opportunity to appreciate him. We always shared a deep friendship.

I also had much respect for that really quite modest man. He understood the necessity for more or less partisan and political debates, but he could never get used to being involved in them. It was mainly when he sat on our committees that he felt at ease. The Senate Committee on Banking, Trade and Commerce more particularly benefitted from his knowledge of economy and finance. Moreover, his advice in that field was sought and appreciated as shown by the various administrative boards to which he was appointed.

Our colleague served his country very well, not only as a financier and politician but also in the Canadian Air Force during the Second World War and as an active member of charitable organizations and art societies.

In expressing my regret on the death of a greatly esteemed colleague, I am acting as spokesman for the Opposition. He had only friends among us as in the entire house.

To his widow, a childhood friend for whom I have a high regard, and to all his family I convey our deep sympathy.

● (2010)

[*English*]

Hon. John J. Connolly: Honourable senators, we have just heard two beautiful tributes to Senator Gélinas. When he came to this house about a dozen years ago, Senator Gélinas brought to us an extensive expertise in commercial and financial matters of great importance to this country. For a long time before coming here he had been sought out by leaders of the private sector for his advice and help, and, as both leaders here tonight have said, he had served on many boards of directors of significant companies both in this country and abroad.

Perhaps we should remind ourselves as well that his experience in commerce, finance, taxation and industry was of utmost help to the Senate, particularly in the deliberations of the Standing Senate Committee on Banking, Trade and Commerce as that committee dealt with legislation touching upon these matters. Not only did Senator Gélinas have a fine background in the private sector of our economy, but he had an innate common sense and superbly developed sense of judgment.

Senator Gélinas was a shy man; he was a modest man; he was a retiring man; he did not shout his opinions from the roof tops. Speech in public, speech in this chamber, was a

difficulty for him, but in committee and in private conversation concerning the work of the chamber he made a notable contribution.

As most senators are aware, Senator Gélinas had a deep capacity for friendship and a wonderful sense of humour which endeared him to his colleagues here.

To his wife and to the other members of his family we all extend our deep sympathy. We will miss him very much.

Hon. Hartland de M. Molson: Honourable senators, unlike many members of this chamber, I never had any political association with the late Senator Gélinas. I was never a member of his party, and neither was I a member of the party opposed to his.

Strangely enough, in the business world, where both of us have been occupied for many years, I found that in most cases he was associated with companies or undertakings which very frequently were in opposition to those with which I was associated. Having said that, I would just like to add that Louis Gélinas was an exceptional man, a very human person, and a very dear friend of mine. He will be greatly missed in his community of Montreal, where he did so much; he will be greatly missed in the province of Quebec; he will be missed in Canada; and certainly he will be greatly missed by all his associates in the Senate. All of us have lost a fellow senator; I—in fact, most of us—have lost a wonderful friend.

I would like to add my message of condolence to those already extended to his wife and the members of his family.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Balfour had been substituted for that of Mr. Baldwin on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

HALIFAX RELIEF COMMISSION PENSION CONTINUATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-78, to repeal an act respecting the Halifax Relief Commission and to authorize the continuation of pensions, grants or allowances paid by the Halifax Relief Commission.

Bill read first time.

The Hon. the Speaker: When shall this bill be read a second time?

Senator Norrie: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(f), I move that the bill be read the second time now.

[Senator Connolly.]

Senator Flynn: As the first order later today.

Motion agreed to.

WESTERN GRAIN STABILIZATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof.

Bill read first time.

Senator Perrault moved, with leave of the Senate and notwithstanding rule 44(1)(f), that the bill be placed on the Orders of the Day for second reading at the next sitting.

Motion agreed to.

CRIMINAL LAW AMENDMENT BILL, 1975

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

● (2020)

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Superintendent of Insurance for Canada on Trust and Loan Companies for the year ended December 31, 1974, pursuant to section 8 of the Department of Insurance Act, Chapter I-17, R.S.C., 1970.

Report on the administration of Allowances for Blind Persons in Canada for the fiscal year ended March 31, 1975, pursuant to section 12 of the Blind Persons Act, Chapter B-7, R.S.C., 1970.

Report on the administration of Old Age Assistance in Canada for the fiscal year ended March 31, 1975, pursuant to section 12 of the Old Age Assistance Act, Chapter 0-5, R.S.C., 1970.

Report on Vocational Rehabilitation for the fiscal year ended March 31, 1975, pursuant to section 8 of the Vocational Rehabilitation of Disabled Persons Act, Chapter V-7, R.S.C., 1970.

Report on the administration of Allowances for Disabled Persons in Canada for the fiscal year ended March 31, 1975, pursuant to section 12 of the Disabled Persons Act, Chapter D-6, R.S.C., 1970.

Report respecting operations under the Health Resources Fund Act for the fiscal year ended March 31,

1975, pursuant to section 13 of the said Act, Chapter H-4, R.S.C., 1970.

Report of the Canada Council, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1975, pursuant to section 23 of the Canada Council Act, Chapter C-2, R.S.C., 1970.

Annual Report to the Governments of the United States and Canada by the Columbia River Treaty Permanent Engineering Board for the period October 1, 1974 to September 30, 1975. (English text)

Report of the Department of Consumer and Corporate Affairs for the fiscal year ended March 31, 1975, pursuant to section 10 of the Department of Consumer and Corporate Affairs Act, Chapter C-27, R.S.C., 1970.

Report of the Canada Post Office for the fiscal year ended March 31, 1975, pursuant to section 80(2) of the Post Office Act, Chapter P-14, R.S.C., 1970.

Report relating to matters transacted by the Registrar General of Canada as Registrar under the Trade Unions Act during the year ended December 31, 1975, pursuant to section 30 of the said Act, Chapter T-11, R.S.C., 1970.

Capital Budget of Central Mortgage and Housing Corporation for the year ending December 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, as approved by Order in Council P.C. 1975-3069, dated December 30, 1975.

Report of the Commission of Inquiry relating to the Department of Manpower and Immigration in Montreal, dated January 1976 (The Honourable Claire L'Heureux-Dubé Commissioner).

Report of Statistics Canada for the fiscal year ended March 31, 1974, pursuant to section 4(3) of the Statistics Act, Chapter 15, Statutes of Canada, 1970-71-72.

Report on operations under the Clean Air Act for the fiscal year ended March 31, 1975, pursuant to section 41 of the said Act, Chapter 47, Statutes of Canada, 1970-71-72.

Report of the Department of the Environment for the fiscal year ended March 31, 1975, pursuant to section 7 of the Department of the Environment Act, Part I of Chapter 42, Statutes of Canada, 1970-71-72.

Report of the Department of Indian Affairs and Northern Development for the fiscal year ended March 31, 1975, pursuant to section 7 of the Department of Indian Affairs and Northern Development Act, Chapter I-7, R.S.C., 1970.

Report of the President and Statement of Accounts of the Industrial Development Bank for the fiscal year ended September 30, 1975, pursuant to section 30(4) of the Industrial Development Bank Act, Chapter I-9, R.S.C., 1970.

Report of the Superintendent of Insurance on the administration of the Investment Companies Act, for the fiscal year ended March 31, 1975, pursuant to section 27(1) of the said Act, Chapter 33, Statutes of Canada, 1970-71-72.

Report of the Department of Manpower and Immigration for the fiscal year ended March, 31, 1975, pursuant to section 5 of the Department of Manpower and Immigration Act, Chapter M-1, R.S.C., 1970.

Report on operations under the Regional Development Incentives Act for the months of July and August, 1975, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

Report of the Department of Supply and Services, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1975, pursuant to section 12 of the Department of Supply and Services Act, Chapter S-18, R.S.C., 1970.

Copies of documents entitled "Directive for the Guidance of the Canadian Transport Commission on Rail Passenger Services", "Canadian Passenger Rail Services", "Technology and Productivity in Passenger Transportation" and "A Canadian Rail Passenger Program", together with a Statement by the Minister of Transport and a Press Release thereon.

Report of the Ministry of State for Urban Affairs for the fiscal year ended March 31, 1975, pursuant to section 22 of the Ministries and Ministers of State Act, Part IV of Chapter 42, Statutes of Canada, 1970-71-72.

Copies of Agreement between the Government of Canada and the Government of the Argentine Republic for Co-operation in the Development and Application of Atomic Energy for Peaceful Purposes, together with a Statement thereon by the Secretary of State for External Affairs. Signed at Buenos Aires on January 30, 1976. In force January 30, 1976.

Copies of Agreement between the Government of Canada and the Government of the Republic of Korea for Co-operation in the Development and Application of Atomic Energy for Peaceful Purposes, together with a Statement thereon by the Secretary of State for External Affairs. Done at Seoul on January 26, 1976. In force January 26, 1976.

Copies of a Background Paper on Nuclear Safeguards and Canadian Safeguards Policy with respect to nuclear power.

Copies of extracts from a document entitled "Safeguards" published by the International Atomic Energy Agency.

Copies of Report on the Study of the Accounts of Canada, dated October 7, 1975.

Copies of Report from the Anti-inflation Board of its reference to the Administrator of the Anti-Inflation Act of a possible contravention of the Regulations by Irving Pulp and Paper Limited.

Reports of the Department of Veterans Affairs and of the Canadian Pension Commission for the fiscal year ended March 31, 1975, pursuant to section 8 of the Department of Veterans Affairs Act, Chapter V-1, and section 4(2) of the Pension Act, Chapter P-7, R.S.C., 1970, including reports of the Pension Review Board, the War Veterans Allowance Board and the Bureau of Pensions Advocates for the same period.

Report of the Textile and Clothing Board, dated November 27, 1975, on an inquiry respecting hosiery.

Report of the Textile and Clothing Board, dated August 8, 1975, on an inquiry respecting work gloves.

Report of the Law Reform Commission of Canada entitled "Evidence", dated December 1975, pursuant to section 18 of the Law Reform Commission Act, Chapter 23 (1st Supplement), R.S.C., 1970.

FOREIGN AFFAIRS

CANADIAN RELATIONS WITH THE UNITED STATES—VOLUME I OF REPORT OF COMMITTEE TABLED

Senator Perrault: Honourable senators, I have the honour to table, on behalf of Senator van Roggen, Chairman of the Standing Senate Committee on Foreign Affairs, a committee report entitled "Canada-United States Relations—Volume I—The Institutional Framework for the Relationship."

This report was published and distributed on Tuesday last, January 27, during the adjournment of the Senate, pursuant to an order of the Senate of December 18, 1975, to enable Canadian members of the Canada-United States Interparliamentary Group, travelling to the United States on January 29 to attend meetings of the group, to take with them copies of the report to be given to their American counterparts.

Honourable senators, before I move that the report be taken into consideration, may I simply say that the report has attracted a great deal of very favourable attention across Canada and in the United States. I think that once again it points up the excellent work being done by committees of the Senate. This conscientious work by many members, representing a diversity of viewpoints, is manifested in the quality of Volume I of this report on Canada-United States relations. The chairman, the vice-chairman and those who make up this committee deserve the commendation not only of the members of the Senate but of all Canadians.

Hon. Senators: Hear, hear.

Senator Perrault: Honourable senators, on behalf of Senator van Roggen, I move that the report be taken into consideration on Wednesday, February 11, 1976.

Motion agreed to.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—CHANGE IN SENATE MEMBERSHIP

Senator Petten, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Cook be substituted for that of the Honourable Senator Smith (Queens-Shelburne) on the list of senators serving on the Special Joint Committee on Employer-Employee Relations in the Public Service; and

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

Motion agreed to.

[Senator Perrault.]

BUSINESS OF THE SENATE

Senator Flynn: Honourable senators, may I inquire of the Leader of the Government as to the program for the Senate during this and next week?

Senator Perrault: Honourable senators, an attempt will be made to provide information later this day.

CRIMINAL CODE

PARTIAL ABOLITION OF CAPITAL PUNISHMENT—EXPIRATION OF TRIAL PERIOD—QUESTION ANSWERED

Senator Perrault: Honourable senators, on December 18, 1975, Senator Greene and Senator Neiman asked questions in the Senate relating to the expiry date for the trial period for partial abolition of capital punishment.

The present legislation does not expire until December 31, 1977.

ANTI-INFLATION PROGRAM

FAMILY ALLOWANCES—QUESTION ANSWERED

Senator Perrault: Honourable senators, on Saturday, December 20, Senator Forsey asked a question with respect to the anti-inflation program. He asked whether I had any indication of "the precise means by which the freeze, the temporary freeze in the family allowance payments will be carried out."

Senator Flynn: So-called.

Senator Perrault: I have been informed that the average per child monthly allowance will remain at $22.08. The anticipated January 1, 1976, increase will not take place as previously scheduled.

EFFECT OF NATIONAL DEFENCE CUTBACKS ON NOVA SCOTIA—QUESTION ANSWERED

Senator Perrault: Honourable senators, also on December 20 last, a question was asked by Senator Macdonald relating to alleged or reported cutbacks in expenditures of the Department of National Defence in Nova Scotia. I have been informed that discussions are going on at the present time regarding the consolidation or closure of bases, but no decision has been made as yet.

[*Later:*]

Senator Forsey: Honourable senators, before Orders of the Day are called I should like to draw the attention of the Leader of the Government to the fact that whoever read my question on the subject of the freeze on Family Allowances cannot have read it very carefully, because what I asked was the means by which the government proposed to impose this, and all I got back, in effect, was that it had been imposed.

I understand, from information I received from the minister privately, that it was a matter of an order in council, an order in council which simply wasn't passed. Had I been less ignorant than I was I should not have asked the question because I should have known that already.

I apologize, therefore, to the chamber, the minister and the Leader of the Government, but I should like to suggest

that in future whoever drafts the answers to questions which the honourable Leader of the Government gives us in this house might read some of the questions rather more carefully, and not go off at a tangent answering something which hasn't in fact been asked.

Senator Perrault: I assure Senator Forsey that no apology is necessary, and that if the answer is incomplete for any reason an effort will be made to provide one that is complete in the very near future.

BUSINESS OF THE SENATE

Senator Perrault: Honourable senators, before the Orders of the Day are called I should like to review briefly the work done by the Senate during the period from October 21 last, when we resumed sittings after the summer adjournment, to December 20, when we adjourned for the Christmas recess. Honourable senators will recall that on October 21 I gave a brief résumé of what had been accomplished by the Senate from the opening of this, the First Session of the Thirtieth Parliament, until we adjourned on July 30, 1975. I said at that time that some 59 bills had come to us from the House of Commons, of which 50 were government bills, eight public bills by private members and one a private bill. All these bills were passed by the Senate and received royal assent before the summer adjournment. In addition, 27 bills—18 government, four public by private members and five private bills—were introduced in the Senate during that period. Before we adjourned on December 20, a further 16 bills had come to us from the Commons and were passed by this house. In addition, two private bills were initiated in the Senate, passed and sent to the Commons.

Possibly the most serious matter facing Parliament this session has been inflation. Ten days after the Prime Minister announced the government's proposals for the control of inflation in October, I opened an inquiry calling the attention of the Senate to the White Paper entitled *Attack on Inflation—A Program of National Action.* The ensuing debate thereon was both challenging and constructive. Many senators on both sides of the house took part in this debate, and their contributions were invaluable. The debate continued until the anti-inflation bill was introduced in the House of Commons, and the Senate on November 18 authorized the Standing Senate Committee on Banking, Trade and Commerce to examine the bill in advance of its reaching the Senate.

● (2030)

The widespread discussion during the debate on the White Paper and the advance study of the anti-inflation bill enabled the Senate to expedite, through morning, afternoon and evening sittings, the passage of this very urgent and important piece of legislation.

Of course, as over the years, the work of the Senate committees continues to be of the highest calibre both in volume and quality, and members of this chamber continue to make invaluable contributions as members of the various joint committees of both houses. The joint committee work has been particularly heavy this session, with the special joint committees on Employer-Employee Relations in the Public Service, the National Capital Region, and Immigration Policy, and the Standing Joint Committee on Regulations and other Statutory Instruments sitting concurrently.

May I say that I feel confident that the Senate will continue, both in this chamber and in its committees, to deal with the same devotion and dedication with whatever tasks may face us during the balance of this session. Present indications are that the work will be heavy and challenging. At this time I want to thank all honourable senators, wherever they may sit, for their spendid and unselfish contributions to the work of the Senate so far this session. I cannot let this opportunity pass without special mention of the chairmen of the various committees who have worked throughout this session with such vigour and dedication, and commendation also to members of the loyal Opposition who have cooperated so well in order to expedite and help the business of the Senate.

Hon. Senators: Hear, hear.

Senator Flynn: Honourable senators, the Leader of the Government has expressed it very well. It is quite obvious that the driving force in the Senate has been the Opposition.

Some Hon. Senators: Oh, oh!

HALIFAX RELIEF COMMISSION PENSION CONTINUATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Margaret Norrie moved the second reading of Bill C-78, to repeal an act respecting the Halifax Relief Commission and to authorize the continuation of pensions, grants or allowances paid by the Halifax Relief Commission.

She said: Honourable senators, the subject matter of Bill C-78, which is called the Halifax Relief Commission Pension Continuation Bill, will bring back memories to many persons across Canada who suffered, or whose relatives and friends suffered, bereavement, injury or damage to their property as a result of the devastating explosion which occurred in Halifax harbour on the morning of December 6, 1917. In addition to some 1,635 persons killed, approximately 10,000 cases of injury were originally reported.

As soon as the extent of the explosion was appreciated, assistance in various forms was sent to the stricken area from other parts of Canada and from the United States. Apart from this immediate assistance, substantial donations of funds were made by individuals and governments to provide financial assistance on a long-term basis to the victims of the explosion and their dependants, as well as to assist in the rehabilitation of the Halifax-Dartmouth area which had been damaged by the explosion.

After a temporary committee had looked after immediate relief, the Halifax Relief Commission was created by an order in council in January 1918. Later that year, this commission was more formally established under an unusual combination of federal and provincial legislation whereby the federal government, which had donated almost two-thirds of the funds made available to the commission, was given the responsibility, through the Governor in Council, for operational matters such as the appointment of the commissioners.

The main purpose of the commission, and its most important trust, was the administration of the system of allowances granted to the widows of those who were killed and to those suffering from disabilities caused by the explosion. While some 3,000 of the original 10,000 injuries were classified as serious, most were not of a permanent nature. This is evidenced by the fact that in 1920 there were 1,028 survivor and disability pensions being paid by the commission. That total has gradually decreased over the years to the point where only 65 were in pay for the month of December 1975.

The normal procedure over the years has been for the commission to make its various reports and submissions to the Governor in Council through the Minister of Finance, from whom it also receives such ministerial guidance as has been given. Over the last 25 years this guidance has been directed towards the winding up of the affairs of the commission, as the passage of time reduced the extent of its responsibilities to the point where the federal and provincial governments have agreed that the continuation of a separate establishment is not warranted, and that the transfer of the responsibility for the payment of the pensions to another, and more permanent governmental body should be made.

I should like to emphasize that this is a transfer of the responsibility. The commission is not being abolished. Its responsibility is being transferred to another governmental body.

As a result of consultation between the federal government and the Government of Nova Scotia, complementary federal and provincial legislation has been prepared towards this end. The two governments have agreed that the Canadian Pension Commission, which has the responsibility for administering the Pension Act under which, among other things or matters, war disability pensions are paid, would be the appropriate body to which the responsibilities of the Halifax Relief Commission should be transferred.

It should be noted at this point that the pensions paid by the Halifax Relief Commission since January 1918 have been increased from time to time in accordance with the consumer price index, in exactly the same manner as war disability pensions have been increased. On January 1, 1976, as a result of this indexing, the pensions were increased by 11.3 per cent, which is comparable to the increments given public servants.

The intent of the bill before us is to establish a special interest bearing account in the Consolidated Revenue Fund into which will be paid the proceeds of the assets of the commission, which amount to $1.44 million, apart from the reserve set aside for its staff superannuation plan in the amount of $160,000, which has been approved by the Governor in Council. That reserve will be transferred to the federal superannuation account, from which the pensions under the superannuation plan will be paid. The explosion survivor and disability pensions will be paid from the special account, which stood at $1,130,000 on January 1, 1976. Its final balance of $150,000, which is not required for the benefit of pensioners, is to be used for the continued rehabilitation of that area of Halifax which was damaged in the 1917 explosion.

● (2040)

The bill provides for the coming into force of this legislation on a day to be proclaimed by the Governor in Council. The various transfers which I have mentioned will take place at a time that is mutually acceptable to the various parties concerned after legislation has been passed by the provincial legislature.

If honourable senators have any questions, I shall be happy to try to answer them.

Senator Smith (Colchester): Honourable senators, I would like an opportunity to say a few words about this bill, the second reading of which has been so eloquently moved by the honourable senator from Colchester-Cumberland (Senator Norrie). I hope it meets the wishes of the house if that is done at the next sitting.

On motion of Senator Smith (Colchester), debate adjourned.

PRIVILEGES AND IMMUNITIES OF SENATORS

MOTION TO APPOINT SPECIAL COMMITTEE—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Langlois:
>
> That a special committee of the Senate be appointed to examine and report upon the privileges and immunities that apply to members of the Senate within the precincts of the Senate, and the powers of the Speaker in respect thereof.—(*Honourable Senator Croll*).

Senator Petten: This order stands until Tuesday, March 2.

Senator Flynn: Why?

Senator Petten: Senator Croll has asked me to do this.

Senator Flynn: If Senator Croll is not here to explain why he wants to delay the debate for a month, I think it should stand until the next sitting.

Senator Petten: I am agreeable to its standing until the next sitting.

Order stands.

SCIENCE POLICY

SPECIAL SENATE COMMITTEE—NOTICE OF MEETING

Senator Langlois: Honourable senators, Senator Lamontagne has asked me to announce tonight that the Special Committee of the Senate on Science Policy will meet tomorrow, Wednesday, February 4, when the Senate rises, to discuss industrial research and development. The witness will be the Honourable C. M. Drury, Minister of State for Science and Technology. The notices for this meeting have, of course, already been sent to honourable senators.

BUSINESS OF THE SENATE

Senator Perrault: Honourable senators, earlier this evening the Leader of the Opposition asked about the

business of the Senate for the remainder of the week. The information now available is rather incomplete. However, tomorrow we will be dealing with Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof. On Thursday we will be dealing with Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act. Consideration of these bills should occupy a good deal of the Senate's time for the remainder of the week.

Senator Flynn: May I ask what is the intention of the government with respect to the present session? What are the bills the government would like Parliament to pass before a new session is started, remembering that this one began about a year and a half ago?

Senator Perrault: All I can say is that the inscrutable legislative pattern will be unfolding shortly.

Senator Flynn: Like the rest.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, February 4, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of text of Joint Communiqué issued by President Echeverria and Prime Minister Trudeau on January 25, 1976, in Mexico City.

Copies of text of Joint Communiqué signed by Prime Minister Castro and Prime Minister Trudeau in Havana, January 29, 1976.

Copies of Joint Communiqué issued by President Pérez and Prime Minister Trudeau following the visit by the Prime Minister of Canada to Venezuela, January 29 to February 2, 1976.

Senator Flynn: How do the communiqués compare?

Senator Perrault: They are all excellent documents.

RULES OF THE SENATE

COMMENCEMENT DATE OF AMENDMENTS—ORDER OF THE SENATE OF DECEMBER 8, 1975 RESCINDED AND NEW DATE AUTHORIZED

Senator Molson, with leave of the Senate and notwithstanding rule 47(2), moved:

That the Order of the Senate of December 8, 1975, that the amendments to the Rules of the Senate contained in the Report of the Standing Committee on Standing Rules and Orders, dated October 29, 1975, and adopted by the Senate on November 26, 1975, shall come into force on the first day of the Second Session of the Thirtieth Parliament, be rescinded; and

That the said amendments shall come into force on March 1, 1976.

He said: Honourable senators, if I may, I will give a brief word of explanation. I think we all remember that in December when the original motion was passed we thought that Parliament would reassemble in January, then prorogue and that a new session would probably start right away, which would have been before now. I believe that was the generally accepted rumour, shall I say, of the times.

It now seems not impossible that this session will continue until late in this spring or summer, in which case it is possible that the amended rules might not become effective until next September or October. For that reason it seemed to be reasonable, and perhaps wise, to suggest that the new rules, which have already gone to the printers, should become effective on March 1.

Motion agreed to.

PROVINCE OF NEW BRUNSWICK

STORM DAMAGE—POSSIBILITY OF FEDERAL AID—QUESTION

● (1410)

Senator Riley: Honourable senators, as most of you are aware, the Atlantic Provinces were struck at about noon on Monday by a hurricane which caused a great deal of damage to public and private property. The city of Saint John, which I represent, was completely blacked out, completely isolated. There was no power and no communication except by ham radio. The most frightening aspect of the storm was that families were without heat and cooking facilities for upwards of 24 hours. In some areas these conditions still existed at noon today. Large sections of the city are still without power and heat.

I am told that damage to property in New Brunswick has been estimated at about $20 million, but that has not been confirmed. The damage in Saint John alone may run to $5 million or $6 million. During the storm, roofs were lifted or torn off, walls collapsed, windows were blown out, steel girders in new construction were twisted, ships broke their moorings, and in all areas commercial establishments had to shut down. All businesses were completely unable to function on Monday and Tuesday, though many are starting to get back to normal today.

I understand that yesterday the Premier of New Brunswick, accompanied by the Director of the Emergency Measures Organization, visited Saint John. I do not know whether the area has been declared a disaster area, but I am informed that the New Brunswick cabinet met this morning and discussed the matter.

My question to the Leader of the Government is this: Has the Government of New Brunswick declared this particular area, and possibly other areas within the province, a disaster area? If so, has the Government of New Brunswick informed the Government of Canada of its decision so that the latter may also make assessments of damage to businesses and individuals for the purpose of providing relief to those affected? As I understand it, every individual in the city and surrounding areas has been affected.

Senator Perrault: Honourable senators, as the honourable senator has observed, it is a requirement, before federal intervention by way of assistance in matters of this kind may take place, that the provincial government declare the emergency to be beyond its resources, at which time a formal request for assistance is directed by that province to the federal government.

I think we all appreciate the graphic description given us by Senator Riley of the very serious effects of the storm which caused so much damage, particularly in the Maritime Provinces. I have no information as yet that any official request for assistance has been received, but I have no doubt that should such a request for assistance arrive, sympathetic attention will be given to it.

PRIVILEGES AND IMMUNITIES OF SENATORS

MOTION TO APPOINT SPECIAL COMMITTEE—QUESTION

Senator Rowe: Honourable senators, I am not sure if this is the appropriate time to ask this question, or whether I should wait until Order No. 4 is called.

Senator Croll was not in the chamber yesterday when a question was raised by the Leader of the Opposition about this order when Senator Petten asked that it stand until March 2. In my view my question is a very important one, and I prefer to raise it now. At what time may we expect further consideration of Order No. 4? This was a motion brought forward by the Honourable Senator Perrault, the Leader of the Government in the Senate. My reason for asking the question is very simple. I regard this as a very important motion.

Senator Perrault: I yield to our distinguished colleague, Senator Croll.

Senator Croll: As a matter of fact, if the honourable senator is ready to proceed, we can proceed with it today.

ANTI-INFLATION PROGRAM

FAMILY ALLOWANCES—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators, I should like to refer to supplementary remarks by one of our distinguished colleagues, Senator Forsey, last night relating to his original question of December 20, 1975. I hope that this may conclude the dialogue, which has been rather interesting.

His question was as to the means by which family allowance payments would be kept at the present level, and I should like to take this opportunity to provide some further information.

I am informed that the Family Allowances Act (1973) provides for a mandatory indexing of family allowance payments "as prescribed." The indexing is prescribed through regulations pursuant to the act, and regulations currently in effect say that the increase in family allowance payments to match the cost of living increase during the preceding year was to be effective January 1, 1976. Therefore, there is now in existence a regulation providing for the cost of living increase to the family allowances.

However, in a practical sense, Mr. Chrétien, the President of Treasury Board, in his remarks of December 18, 1975, to the House of Commons regarding budget cuts indicated that the Family Allowances Act would be amended in the resumed session to reflect a suspension for one year of the indexing of family allowance payments and that such legislation would have a retroactive effect. It is in the interests of recipients of family allowances to have a clear understanding of the amounts of the payment they would receive over the year. Therefore, rather than make an overpayment during the first months of 1976, before the Family Allowances Act was amended, and then have the government hold back sufficient funds after the legislation was passed to collect the overpayment, it was thought wiser to give recipients the assurance of the 12 equal monthly payments of family allowance.

I hope that the foregoing information has dealt fully with Senator Forsey's question when he asked about the "precise" legislative or other means that would be employed to suspend the indexing of family allowance payments.

Senator Flynn: A very interesting answer.

SCIENCE POLICY

COMMITTEE MEETING CANCELLED

Senator Lamontagne: Honourable senators, before the Orders of the Day are called, I wish to announce that the meeting of the Special Senate Committee on Science Policy which was to have taken place this afternoon has been cancelled due to unforeseen circumstances.

HALIFAX RELIEF COMMISSION PENSION CONTINUATION BILL

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Norrie for the second reading of Bill C-78, to repeal an act respecting the Halifax Relief Commission and to authorize the continuation of pensions, grants or allowances paid by the Halifax Relief Commission.

Hon. George I. Smith: Honourable senators, as I intimated briefly last evening, I wish to make some comments in respect of this bill, but I want to make it very clear from the beginning that I support the bill. Therefore I do not rise for the purpose of asking anyone to oppose it. The suggestions I have to make are for future consideration, or for present consideration and future action, as the case may be.

I thought I might give the house a few more facts about the matter, not in any way to contradict what was said by the honourable senator from Colchester-Cumberland (Senator Norrie) last evening, but rather as an amplification thereof.

As the honourable senator said, those involved in receiving benefits from this fund in December 1975 numbered 65. The ages of these 65 people, in groups, are as follows: seven are in their fifties, 25 in their sixties, 23 in their seventies, and 10 in their eighties. As to categories of people, one is a dependant of a person killed in the explosion; five are widows of persons killed; nine are suffering from general disability due to injuries received in the explosion; 11 are blind; and 39 are partially blind, many having lost completely the sight of one eye.

● (1420)

Perhaps in passing it is worth noting that this high proportion of people who have had their eyesight affected reflects some indication of what happened on December 6,

1917. There was such a terrific explosion that the glass in windows of buildings and residences was not only broken but was flung or thrown in such a vigorous manner as to cause many of the casualties, including some of the fatalities and cases of blindness.

This fund was established, as was said last evening, as a result of the compassion and generosity of governments, including those of Canada, Nova Scotia and other provinces, private persons in all parts of Canada and the United States and, particularly, the New England States. Payments have been made ever since the fund was established during the year after the explosion, and much of the money was expended on the rehabilitation of the very badly damaged area of Halifax. I am informed by the authorities of the Halifax Relief Commission that, effective January 1, 1976, the rates being paid are as follows: the one dependant I mentioned receives $119.44 per month; the five widows each receive $199.44; and the nine suffering from general disability receive a monthly payment of from $40 to $290, depending upon the degree or percentage of disability assessed in the individual cases. The 11 blind persons receive payments in the range of $265 to $422 per month, depending upon their circumstances. The 39 who are partially blind each receive $99.02 per month.

Honourable senators, I am informed, although I cannot confirm it from my own first-hand knowledge, that these rates are generally below those paid to pensionable persons in similar circumstances in connection with service in the armed forces in time of war. One of the submissions which I propose to make is that this inequality should no longer be permitted to exist.

Consider for a moment how these deaths and injuries came about. When the explosion occurred, Canada and Canadians had then been heavily involved for something over three years in the greatest cataclysm of battle the world had ever known. Halifax was the main Canadian port through which Canadian men and women and munitions and supplies left Canada to become part of this country's great war effort overseas. Munitions of all kinds were stored in the area in great quantities, not only for shipment overseas but for many other uses. From the early days of the war until its end, the citizens of the Halifax-Dartmouth area were continuously exposed, 24 hours a day, to the danger which became a terrible reality on December 6, 1917.

In the morning of that day two ocean-going ships, both connected with the war effort, were moving toward each other in that part of Halifax harbour known as The Narrows. One of the ships was laden with a cargo of dangerous and volatile high explosives. Through an error in navigation, which I believe has never been completely explained, the two ships collided and, despite the gallant efforts of many people to prevent it, the munitions cargo exploded shortly after 9 o'clock in the morning. The force of the blast is generally acknowledged to have been far greater than any other blast resulting from the act of man until the explosion of the atomic bombs near the end of the Second World War.

The great majority of the casualties—last night the figures of 10,000 injured and 1,635 killed were given—occurred in a matter of a few seconds, much more quickly, I believe, than I can say "occurred in a matter of a few seconds." I doubt whether so many casualties have ever occurred in such a short time in the bloodiest battles of any war until the atomic bomb explosions to which I have already referred.

Honourable senators, having given a brief and inadequate outline of the facts and surrounding circumstances, I should like to draw your attention to two provisions of the bill now under consideration.

Clause 5(4) provides:

> No payment shall be paid out... in excess of the amount of the balance to the credit of the Account.

That is, to the credit of the account established in the accounts of the Canadian government when this fund is transferred to it, which means that it is necessary that the pensions be kept within the amount of the fund and within the individual amounts which can be calculated actuarially to bring about that situation.

Clause 6 of the bill provides that when no further amounts will be required for payment out of the fund, the Government of Canada, in consultation with the Government of Nova Scotia, may transfer any balance remaining in the account to a provincial or municipal body in Nova Scotia for the continued rehabilitation of the area of Halifax that was damaged by the explosion.

There are two points that I wish to emphasize and bring to the attention of the Governments of Canada and Nova Scotia for consideration in the future. I have said that of the 65 people now eligible for benefits, 11 are blind and 39 are partially blind. That means that 50 out of a total of 65 persons are receiving benefits because of injury to their sight, or nearly 78 per cent of the total.

There is in Halifax a school for the blind which is devoted entirely to helping those whose sight is seriously deficient and which never has more money than it requires to carry on this very necessary and beneficial work. If there should, at the last, be a balance remaining in the fund, it would appear to me to be in harmony with the general objects of the fund to provide that any such balance be transferred to the school for the blind, or its successors, to assist in carrying on its work.

My second point is that those casualties were suffered in the course of a war in which Canada and her allies participated, just as casualties were suffered by members of the armed forces. Now, as those casualties, and the dependants of those who were killed, move on into the senior years of their lives, I submit that this fact should be recognized by raising the benefits to the level received by war veterans and their dependants.

Such an increase may, of course, exhaust the fund while there are still persons entitled to receive benefits, and this would require some money from the Consolidated Revenue Fund outside the account itself; but surely, in the ordinary course of events, it would seem likely that any such requirement from the Consolidated Revenue Fund would be relatively insignificant.

● (1430)

Therefore, I respectfully urge the federal government and the Government of Nova Scotia to examine carefully these two suggestions which, I believe, are in harmony with the spirit of the fund, in harmony with the spirit of fairness, and not inconsistent with any generally accepted

principle of law. I respectfully suggest that in their consideration they contemplate the possibility of amending this legislation, and any legislation that may be passed in the Province of Nova Scotia relative to the matter, to take into account these two points.

In the meantime, as I indicated earlier, I intend to vote for this bill and I urge all honourable senators to do the same.

Senator Croll: May I ask the honourable senator a question? What is the history of the augmenting of the fund from time to time? Have the original allowances been increased and, if so, by how much?

Senator Smith (Colchester): It is my recollection that the fund was built up over a period of a relatively short number of years after 1917, and that there has been no augmenting of the fund except, of course, such as could be obtained from interest or capital appreciation of investments.

Senator Croll: I am referring to the augmenting of the individual allowances provided by the fund.

Senator Smith (Colchester): As Senator Norrie pointed out last evening, there was an increase of 11.3 per cent, effective on January 1 of this year, to take into account the rise in the consumer price index which had occurred in 1975, and I believe that over the years there have been occasional adjustments in that respect.

Senator Norrie: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Norrie speaks now, her speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Norrie: Honourable senators, there are no further comments I wish to make on this bill.

Motion agreed to and bill read second time.

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

Senator Norrie moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

WESTERN GRAIN STABILIZATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. A. Hamilton McDonald moved the second reading of Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof.

He said: Honourable senators, Bill C-41 has been before Parliament for some considerable time. It was originally introduced and given first reading in the other place on December 4, 1974. Since that time, it has been considerably modified, and only now reaches this chamber.

Prior to the bill's reaching the Senate, the Agriculture Committee of the other place spent considerable time discussing it, and also in travelling across that part of Canada which will be affected by it. It is my view that the measure before us today is much improved as a result of the travels of the House of Commons Agriculture Committee and their having heard representations from those people who will be most directly affected by it, namely, the farmers.

Bill C-41 provides a program to deal with the historical fact that income from grains and oilseeds on the Prairies has alternately zoomed to high levels for short periods of time, and then plummeted to very low levels for, in most cases, extended periods of time.

If one were to produce a chart of the income from cereal grains produced on the Prairies, it would be found to be pretty consistent throughout the history of cereal grain production. It would show sharp peaks from time to time and then drop off rapidly to very low levels, which, as I said a moment ago, extended over a considerably longer period of time.

This instability of income has meant a long history—as a matter of fact, it is the complete history—of the boom-and-bust cycle on the Prairies. This not only affected the farmers but, as their incomes rose sharply and then dropped drastically, the business community of the prairie region was also affected. The rural communities, the municipalities, and the prairie economy generally, have suffered because of this.

Even the revenues of provinces like Saskatchewan have been drastically affected by this boom-and-bust cycle in the economy of the prairie farmers. I suggest that it has even affected the revenues of the Government of Canada. It has affected the Government of Canada in that sales of cereal grains play a large part in our foreign trade, and over the years have been a major item in our trade balances.

For these reasons, in my view at least, Bill C-41 is of major interest and concern not only to prairie farmers, but to prairie people and I suggest, to the people of Canada generally.

This instability in agricultural income was identified by the Western Economic Opportunity Conference, which was held in Calgary in 1973, as the central problem in Western Canada. The Western Grain Stabilization Bill is designed to stabilize grain income on the Prairies by eliminating the sudden and sharp income declines that have so often characterized grain sales in the past. The sudden income slumps of the past resulted, in the main, from declining grain prices or the constriction on markets, chiefly export markets, or both. Rising production costs contributed to the tight economic position as prices and markets fell. Grain production is, in many cases, influenced by this cycle, and I suggest that this is not a healthy situation, when plantings of cereal crops are sometimes hindered because of price patterns over a recent period of time.

The basic concept of the plan under Bill C-41 is to create a fund, made up of contributions by producers and the federal government, to be used to maintain the net cash flow to prairie grain producers from grain sales at the level of the average of the previous five-year period. Prairie grain producers will contribute to the western grain stabilization account two per cent of their gross receipts, up to a maximum of $25,000, from six major grains and oilseeds produced on the Prairies, namely, wheat, barley, oats, rye, flax and rapeseed. The maximum producer payment into the fund would be $500 per year, which is two per cent of the eligible sales of $25,000. The federal government will

put into the western grain stabilization account $2 for every $1 contributed by the producers.

● (1440)

Contributions by producers are tax deductible as a farming expense, as far as income purposes are concerned, and they are to be deducted at the country elevator at the time of delivery. The Canadian Wheat Board will automatically make remittances on interim and final payments up to the maximum level of contributions. In other words, if a farmer has not delivered sufficient to make his maximum contribution of $500, then deductions will be made from the final payments which are made by the Canadian Wheat Board to the farmers. Participating producers may, in authorized circumstances, remit levies on sales to feed lots and the seed trade, and also on crop insurance claims.

Contributions to the account by producers can be credited to their estates, a trust or, in the case of a sale of the farm, to a new owner. I will deal with that point more fully a little later on.

As soon as the producer has contributed his maximum of $500, he will receive an endorsement on his permit book so that no further deductions will be made. Included in a producer's book of gross cash receipts are the following: all cash receipts from sales to the Canadian Wheat Board; all cash receipts for sales of wheat, oats, barley, rye, flax and rapeseed to authorized elevators, feed mills and feed lots; all crop insurance payments and other specified payments received by the producer; and all sales of seed grain through commercial outlets.

Final payments, being the difference between the initial payment made by the Canadian Wheat Board and the final realized price that the Canadian Wheat Board receives on the sale of grain, are included as cash receipts for the first full calendar year following the crop year for which payment is made.

I shall deal now with the method by which payments will be made out of the fund. Whenever the eligible net cash flow to prairie producers from grain sales falls below the previous five-year average, payments will be made directly to producers in proportion to their contributions. The net cash flow, for any given year, is the difference between the total gross receipts from the sale of prairie grain for that year and the total cash costs to the producers. The eligible receipts are all those grain receipts under the $25,000 maximum from those participating in the plan. The eligible net cash flow is the net cash flow multiplied by the ratio of eligible gross cash receipts to the total cash receipts.

For example, if, in any calendar year, the total gross sales of these six prairie grain products amounted to $2.5 billion, and the total cash costs of production for that calendar year was set at $1 billion, this would mean that the net cash flow for the calendar year would be $1.5 billion. The eligible net cash flow for that calendar year is estimated at $1.2 billion. If this eligible net cash flow is higher than the average for the previous five years, no payment is made out of the fund. On the other hand, if the eligible net cash flow is less, by one per cent or more, than the previous five-year average, a payout is made to producers from the fund. The total amount paid out of the fund will be the difference between the year's eligible net cash flow and the average eligible net cash flow for the previous five years.

Included in calculating the cash costs of production will be such expenses as property taxes, tools and equipment, fuel, tires, tubes, anti-freeze, licences, insurance, and spare parts; cash outlays for fertilizer, seed, pesticides, herbicides, et cetera; farm building maintenance, hydro and telephone, insurance premiums, custom work and hired labour.

Whenever this net cash flow from grain sales drops below the previous five-year average, the fund will trigger a payment large enough to keep the total flow to the Prairies of net cash from grain sales at the five-year average.

Each producer will share in the payment, in the ratio of his contributions in the current three-year period—that is, the current year plus the previous two—to the total contributions of all other participating producers.

No farmer will be forced to participate in the plan. A farmer who does not wish to participate in the plan may choose to remain out of it in the initial three-year period. Producers will have three years from the time it becomes effective—that is, to January 1, 1979—to elect not to participate in the program, if they so choose.

Should a producer elect to enter the plan at any time after having opted out, he may do so, as a conditional participant for three years—an option that is available only once. In the event of a payout under the program, conditional participants will be subject to a 10 per cent penalty.

Any new producer, who begins farming at some time in the future, will have the same opportunity for a three-year period from the year in which he begins to farm.

Where a producer decides not to participate in the plan in the first of the three optional years available to him, all levies paid by him into the fund will be returned and he will not be eligible to share in any payouts. If a producer opts out in the second or third year of these optional years, all levies paid in the year in which he opted out would be refunded to him, but he would retain an interest in the fund for the other year or years, and would share in any payout to the extent of his contributions still remaining in the plan.

When a farmer decides to retire or wishes to sell his operation, he has two alternative options which he may exercise at his choice in connection with the equity he has built up in the fund.

On the one hand, he may decide to sell his interest in the fund as an asset of his farming enterprise. Fully paid-up participation in the fund will clearly be an item of value, and under the plan this interest will be assignable in law to the new purchaser of the farm. On the other hand, the farmer upon retirement or sale may wish to retain full interest in the fund for himself. If he does so, he will be entitled to share proportionately in any payout which may be made in the last year in which he contributed levies or in the two succeeding years. After this latter time, however, his interest will have expired.

To be eligible to participate in the program, a person must be an actual producer and a Canadian citizen or landed immigrant. In the case of a corporation, the corpo-

ration must establish to the satisfaction of the government that more than 50 per cent of its shares are owned by persons who are Canadian citizens or landed immigrants.

The bill provides for the creation of a five-member advisory committee of farmers or their representatives, to advise on the administration of the plan. The costs of administering the plan will be borne entirely by the federal government. No administrative costs will be deducted from the fund. The federal treasury guarantees the solvency of the western grain stabilization fund. If, in the event of continuous heavy draws, the fund becomes exhausted, the federal government will lend it whatever sums are required. The federal government will pay interest on the fund at all times it is in a surplus position. Similarly, interest will be charged to the fund if it is ever in a deficit position.

The plan is not really a guaranteed income scheme. It is designed to protect grain producers from sudden slumps that have characterized the past. The plan will protect grain farmers from drops in grain prices, slumps in markets, widespread Prairie crop failure and rising costs of production, or any combination of these. It will stabilize grain incomes on the Prairies, and contribute significantly to the stability of Prairie economies.

I want to repeat what I said a moment ago, that this western grain stabilization plan will be administered at the sole expense of the federal government. The federal government will contribute $2 for every $1 that is contributed by the producer. The plan represents a major commitment by the federal government to Prairie agriculture and to the economy of all the western provinces.

● (1450)

Lengthy consultations have taken place over several months—as a matter of fact over a year—with farm organizations, the grain trade and provincial governments. Many suggestions from these consultations have been incorporated into this program to ensure that it is the best possible program, and that it truly reflects the interests of grain producers who are the mainstay and strength of Prairie economic stability.

Honourable senators, I have dealt only with the principle of the bill. I hope that the bill will receive second reading in due course. If it does, it is my intention to move that it be referred to the Standing Senate Committee on Agriculture, at which time its details can be discussed thoroughly. I am sure that the Minister of Agriculture and officials of his department will be present at that time to answer any questions concerning contributions to the fund and the manner in which the fund is built up, and the manner in which payments can be made out of the fund.

It is my belief that the bill is a step in the right direction—that of bringing some stability to the grain producers of western Canada and to every one who lives in western Canada. Moreover, as I said earlier, it affects not only the Prairie region but Canada generally, especially in respect of the important role which sales of wheat and other cereal grains play in terms of ameliorating the balance of payments problems we so often have to face in our external trade.

I commend the bill to your favourable consideration.

Senator Bell: Would the honourable senator permit a question which, I am afraid, I ask out of ignorance? How will the grain producers share in the fund? Is this to be vested in the producer, or in the land? For instance, if a farmer, who was growing wheat in Saskatchewan and had shares in the fund, decided to sell that particular property and raise a different type of grain crop in the Peace River district, would his share remain with him, or would it remain with the land that he sold to another farmer who was growing the same type of crop?

Senator McDonald: There are two options open to him under the bill. He could sell the equity he had built up in the fund as an asset to whoever purchases the particular holding on which he was producing wheat in Saskatchewan. In this case, the money he had paid into the fund would be an asset which could be sold along with the farm. Alternatively, he could retain that interest for himself, in which case he would sell the farm less the fund asset he had built up. If he goes to another area in the Prairie region and begins to produce another crop, he is able to carry that asset with him. Then, in the event that a payment is made in the next few years, he would be able to draw out that payment, regardless of whether he is still on the old farm or a new one.

Senator Yuzyk: Would Senator McDonald permit another question? Would he kindly explain why this act is to be administered by the Canadian Wheat Board? As this appears to be an income insurance scheme, it would appear more logical for it to be administered by the Department of Agriculture.

Senator McDonald: I cannot speak for the Canadian Wheat Board or for the Department of Agriculture, but perhaps the reason it is being administered by the Canadian Wheat Board is that the vast majority of sales of Prairie grains are made through the Canadian Wheat Board and it, to a large extent, would be the collecting agency. Whether that is the reason or not, I do not know. As I said earlier, I expect the minister responsible for the Canadian Wheat Board will be present when the committee considers this bill, and I suggest you ask him that question.

Senator Sparrow: Is there not a western grain stabilization administration that handles the administration? I think the Canadian Wheat Board will be concerned only with the fund. As I understand it, there is a separate administration which will handle the plan.

Senator McDonald: I think you are right. As I said earlier, the Canadian Wheat Board is involved because it is the major collecting agency owing to the fact that the vast majority of cereal grains goes through its hands. But, as I have said, the minister is more able to answer that particular question than I, and I suggest that Senator Yuzyk pose it to him.

Senator Buckwold: Would the honourable senator answer a further question? Is the money which a farmer may receive from the fund subject to income tax?

Senator McDonald: Are you referring to a payment from the fund?

Senator Buckwold: Yes.

Senator McDonald: Yes, such payments are subject to income tax.

Senator Buckwold: So the federal government would be getting a fair share of its money back through income tax.

Senator McDonald: I suppose that would depend on the individual farmer and his tax bracket. But, payments out of the fund are certainly taxable, in just the same way that contributions to the fund are deductible in the year they are made.

On motion of Senator Yuzyk, debate adjourned.

PRIVILEGES AND IMMUNITIES OF SENATORS

MOTION TO APPOINT SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Langlois:

That a special committee of the Senate be appointed to examine and report upon the privileges and immunities that apply to members of the Senate within the precincts of the Senate, and the powers of the Speaker in respect thereof.—(*Honourable Senator Croll*).

Senator Croll: Honourable senators, when I last spoke to this motion, which did not originate with me, I said that I thought it would be inappropriate to proceed with it. Despite the fact that it is an important motion, I still think it is inappropriate to proceed with it. Nevertheless, I will yield to any member of the Senate who wishes to speak at this time.

Senator Flynn: In that case let the question be put.

The Hon. the Speaker: Honourable senators, do you wish the question put?

Senator Flynn: If Senator Croll does not intend to speak to the motion, and if no one else wishes to speak, then let the question be put.

Senator Croll: I believe Senator Rowe intimated earlier today that he wished to proceed with this matter.

Senator Flynn: Are you then asking that the order stand in the name of Senator Rowe?

Senator Croll: No. I said I would let it stand in my name.

Senator Flynn: But apparently you have nothing else to say on the matter.

Senator Croll: But someone else may have.

Senator Flynn: If someone else has something to say, then let him adjourn the debate.

Senator Croll: I wish to adjourn this debate at this time on the understanding that it is open for any honourable senator to continue.

Senator Flynn: Very good. Is there anyone else?

Senator Croll: There may be.

Senator Flynn: If we do not know, then the question should be put.

Senator Croll: There may be tomorrow.

[Senator McDonald.]

Senator Langlois: It is quite possible that some senators who are not present at this moment may wish to speak to this motion tomorrow.

Senator Flynn: Then let the Whip on the other side adjourn the debate, but if no one else wants to speak, then the question should be put.

Senator Petten: Honourable senators, I move the adjournment of the debate.

Senator Flynn: Will that be an advancement of the situation in any way?

On motion of Senator Petten, debate adjourned.

NORTH ATLANTIC ASSEMBLY

TWENTY-FIRST ANNUAL SESSION, COPENHAGEN, DENMARK—DEBATE CONCLUDED

The Senate resumed from Thursday, December 4, 1975, the debate on the inquiry of Senator McDonald calling the attention of the Senate to the Twenty-first Annual Session of the North Atlantic Assembly, held in Copenhagen, Denmark, from 21st to 26th September, 1975, and in particular to the discussions and proceedings of the Session and the participation therein of the delegation from Canada.

Hon. Paul C. Lafond: Honourable senators, owing to the long lapse of time, the question of the Twenty-first Annual Session of the North Atlantic Assembly would seem a trifle stale. For that reason, I intend to suggest, if no one else wishes to speak on the subject, that it be dropped from the Order Paper. Before doing that, however, I should like to make just a few observations.

First of all, I should like to congratulate, for their useful, interesting and informative contributions to this debate, my colleagues who attended that Session—Senator A. H. McDonald and Senator Paul Yuzyk. I could pick up again a number of arguments I made last year, but I do not think it is necessary to do so at this time.

● (1500)

Senator McDonald's intervention touched on our contribution to NATO defence. Of course, we must keep in mind at all times that NATO was brought into being to accomplish some of the things that the United Nations at that time could not accomplish, and possibly cannot accomplish even now. Since the inception of NATO it has been thought—and this was brought forward by Canada—that probably much more should be done in the field of political and economic cooperation. Of course, with the accession to the European Economic Community of a few more NATO countries, the majority of the members of that organization feel, and perhaps rightly so, that their contribution to greater political and economic stability in this world can be accomplished more effectively through the European Economic Community than through NATO. So, for the next little while, at least, we will probably have to give more attention to the defence aspects of that organization. I would like to come back to that in a moment, if I may.

I am grateful to Senator Yuzyk for putting on record the full text of the recommendations and resolutions adopted by the Assembly. I particularly want to direct the attention of honourable senators to that part of the resolutions and recommendations emanating from the Scientific Com-

mittee, to which I was assigned last fall. This is one of the aspects of the NATO operation which is not by any means secret, and which provides excellent public relations on a worldwide basis for NATO.

Focusing on one particular point, and without going into detail, I would like to refer to the subcommittee of the Scientific Committee, which is called the Subcommittee on the Major Concerns of Modern Society, where quite a bit of research on a variety of those concerns is being carried out by teams of countries. At the moment there are 18 such teams conducting research on energy, geo-thermal activity, conservation, pollution, and so on. Eighteen different subjects are being dealt with, Canada being directly involved in six of them. I refer honourable senators to what has already been put on record.

Also for the record I would like to mention at this point the fact that the Secretary General of NATO, Mr. Joseph Luns, was in Ottawa last evening, the guest at a dinner given by the Canadian members of the North Atlantic Assembly. We had, as we are wont to say, a full and frank exchange of views. The Secretary General was good enough to field questions, to which he replied very candidly, and we got the feeling that his views on Canada's contribution to the defence aspects of NATO are much less acerbic than they were six months or so ago.

Senator Flynn: Thank God.

Senator Lafond: Thank God, and, to some extent, thank the government also, because the views of the government have changed considerably in the last six months.

Senator Flynn: That is exactly what I was referring to.

Senator Lafond: The approach and the views of the government with regard to this country's defence contributions to NATO, with regard to the acquisition of material, and with regard to the development of new defence policies respecting not only NATO but other defence commitments of this country, have evolved considerably over the last six months.

Senator Flynn: Bravo.

Senator Lafond: It seems to me that we are learning of this from statements by the Minister of National Defence, and other spokesmen speaking on behalf of the government of Canada, that have been made abroad. Hardly any such statements have been made in Parliament, but some have been. Those that were made in Parliament, I submit, were made in the other house. It is my contention that in this house, representing the generation that we do, there is a great reservoir of experience, knowledge and interest in the field of matters military. On both sides and in every corner of the house I see a good number of people who were senior officers, and who, though against their wish, waged war, knew what it was, is, and is going to be, and it seems to me that we do not have enough opportunity to be informed about, or to be in a position to discuss, defence policy with our government, whatever its political appellation may be.

I suggest, therefore, honourable senators, that through discussions between the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, and the chairman of our Foreign Affairs Committee, some means should be devised by which the Minister of National Defence could appear periodically before that committee, either in public or *in camera*, so that we may have briefings, and full and frank discussions, on what our defence situation is, where we are going in this regard, and how we are going to get there.

Hon. Jacques Flynn: Honourable senators, I do not want to delay the conclusion of this debate. I would merely like to commend Senator Lafond for having said that the government has changed its attitude towards NATO in recent months.

From the time the present Prime Minister came to office in 1968 up until only recently, Canada's attitude towards NATO was, to say the least, unenthusiastic. I remember well a 1968 meeting of the parliamentarians from NATO countries where the climate was one of uncertainty as to what the Canadian position would be towards NATO.

I congratulate Senator Lafond also on his suggestion that the minister be asked to appear before the Standing Senate Committee on Foreign Affairs. We have reason to take a vital interest in this alliance, since the Senate has more time to do this than the other place has, and I think it is up to us to look into the role Canada plays in NATO.

With regard to the government's recent change in attitude concerning NATO, I wonder if Senator McDonald would agree that this might have come about as a reaction to the tacties of the U.S.S.R. and its allies, willing or unwilling, who, for the past year or so, have been trying to win diplomatic victories by aligning themselves with the Third World on all possible occasions. I am thinking, for example, of the resolutions adopted in London by the IPU with reference to the Middle East, and the resolution adopted at the United Nations with regard to Zionism, and other incidents of the same kind, in which the countries of the Warsaw Pact have consistently used the tension in the Middle East, and the attitudes of the Third World, to try to isolate the western nations, and especially those belonging to NATO. This trend, which to me is quite obvious, suggests that the NATO alliance is more than ever needed for the purpose of defending Canada; in fact, for defending civilization, because there will be no winner of a third world war.

● (1510)

Hon. Raymond J. Perrault: Honourable senators, I appreciate very much, as I think we all do, the contribution to the discussion on foreign affairs made by the Leader of the Opposition. Canadian foreign policy, since 1968, has been one of prudence and diligence in pursuit of peaceful initiatives around the world. This has been consistent, I think, with the record of Canadian governments for many, many years—

Senator Flynn: Not everybody thinks that.

Senator Perrault: —including that period when the present Leader of the Opposition in this chamber served with distinction in an earlier government.

The increase in Canadian support for the North Atlantic Treaty Organization does not mark a radical departure from the pattern established by the government in the past and by preceding governments.

The Leader of the Opposition has alleged certain efforts by members of the "Warsaw Bloc" to exploit situations around the world. I think the government's position is that,

while we must be on guard for our community of interests, we should at the same time proceed in the spirit of détente to open new initiatives with many countries of the world. It should be remembered that in the 1950s, when the Leader of the Opposition served with another government, relations were established with the new Government of Cuba, for example, and the Right Honourable John Diefenbaker was very active in the pursuit of new initiatives with the new Cuban government and Premier Fidel Castro. Down through the years, despite our ideological differences with various countries of the world, successive Canadian governments have engaged in constructive efforts toward détente with many types of philosophies and many types of governments while at the same time maintaining the paramount importance of Canadian interests.

Senator Flynn: Not NATO.

The Hon. the Speaker: Since no other honourable senator wishes to participate, this inquiry is considered as having been debated.

Debate concluded.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, February 5, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Freshwater Fish Marketing Corporation, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended April 30, 1975, pursuant to section 33 of the Freshwater Fish Marketing Act, Chapter F-13, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Copies of contracts between the Government of Canada and the Municipalities of Parkdale and Sherwood, Prince Edward Island, for the use or employment of the Royal Canadian Mounted Police, pursuant to section 20(3) of the Royal Canadian Mounted Police Act, Chapter R-9, R.S.C., 1970. (English text)

PRIVILEGES OF PARLIAMENT

COMMERCIAL USE OF PICTURE OF PARLIAMENTARY LIBRARY—QUESTION

Senator Forsey: Honourable senators, I rise on what I think may perhaps constitute a question of privilege, although I am not altogether sure of that. I was handed this afternoon by a member of the press some advertising matter sent out by something called "The Publishers Clearing House", which I understand is an American based firm, and which is using as a considerable part of its advertising literature a picture of the parliamentary library. I cannot help wondering whether this is altogether a proper thing, and whether it is, to some extent, an invasion of the privileges of Parliament.

Here, particularly, for example, is this card in the form of something that looks almost like a large dollar bill, headed "Beat Deadline Inside", and which then states "Three Promptness Awards". There is a splendid cut of the parliamentary library, then there is a long sort of coupon thing, looking like a government bond, and on each of the coupons there appears again this cut of the parliamentary library.

Remembering the amount of dust created a few years ago when the Holiday Inn undertook to call itself "Parliament Hill Inn", or something of that sort, I wonder whether perhaps a similar point might arise here.

Senator Perrault: Honourable senators, the honourable senator may have a perfectly valid point. Certainly inquiries will be made to determine whether or not there has been a breach of privilege.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, February 10, 1976, at 8 o'clock in the evening.

Before the question is put, I should like, as usual, to give a brief summary of what we can expect for the next week.

First, the committees. On Tuesday, the Standing Senate Committee on Foreign Affairs will meet at 2.30 p.m. to continue its study of Canada-United States Relations. On Wednesday, the Standing Senate Committee on Banking, Trade and Commerce will sit at 9.30 a.m. to commence its examination of Canadian textile problems, and the Special Senate Committee on Science Policy will meet in the afternoon when the Senate rises.

● (1410)

In the Senate on Tuesday evening we will continue with the second reading debate on Bills C-41 and C-71, and Senator Desruisseaux will call the attention of the Senate to the question of total free trade as an economic consideration for Canada.

The Report of the Standing Senate Committee on Foreign Affairs, entitled: "Canada-United States Relations—Volume I—The Institutional Framework of the Relationship," will be taken into consideration by the Senate on Wednesday. Also on Wednesday, Senator Michaud will call the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.

As far as I have been able to ascertain, the only bill likely to come to us from the House of Commons next week is Bill C-58, to amend the Income Tax Act. This is also known at the *Time* and *Reader's Digest* bill.

Senator Flynn: Wishful thinking!

Motion agreed to.

PROVINCE OF NEW BRUNSWICK

STORM DAMAGE—POSSIBILITY OF FEDERAL AID—QUESTION ANSWERED

Senator Perrault: Honourable senators, yesterday during the Question Period Senator Riley asked, in connection with the devastating storm which caused so much damage in New Brunswick and other areas of the Maritimes a few days ago, whether the Government of New Brunswick had informed the Government of Canada of its decision to declare or not to declare the area as a disaster area so that the federal government might make assessments of damage to businesses and individuals for the purpose of providing relief to those affected. I now have some supplementary information to provide.

I am informed that the Saint John area and the Bay of Fundy shore area have been declared disaster areas by the Government of the Province of New Brunswick. At this time federal government representatives, through the Emergency Measures Organization, are in contact with New Brunswick government officials in order to expedite assessment as to the damage to personal and real property in the aforementioned area.

The procedure that is followed in these cases is that the Premier of New Brunswick will ask the Prime Minister to provide federal government assistance, once an assessment is made of the damage in the province to both public and private properties. I understand that financial assistance is provided for uninsured risks in New Brunswick on the following basis:

1. The Government of the Province of New Brunswick must assume the responsibility for the first dollar per capita of damage in New Brunswick, and this amounts to $680,000.

2. For the next two dollars per capita of damage, the cost of compensation is shared 50 per cent provincial and 50 per cent federal.

3. The next two dollars per capita of compensation is shared 25 per cent provincial and 75 per cent federal.

4. Anything above that, the provincial government pays 10 per cent and the federal government 90 per cent.

That is the formula, honourable senators, for cases of this kind.

HALIFAX RELIEF COMMISSION PENSION CONTINUATION BILL

THIRD READING

Senator Norrie moved third reading of Bill C-78, to repeal an act respecting the Halifax Relief Commission and to authorize the continuation of pensions, grants or allowances paid by the Halifax Relief Commission.

Motion agreed and bill read third time and passed.

WESTERN GRAIN STABILIZATION BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator McDonald, seconded by the Honourable Senator Smith (Queens-Shelburne), for the second reading of the Bill C-41, intituled: "An Act respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof". (*Honourable Senator Yuzyk*).

Senator Yuzyk: Honourable senators, I am not prepared at this time to proceed with the debate because certain materials that I have sought have reached me only now, and I am not prepared to incorporate them into my speech. Therefore, with leave, I request that this order stand, although I am prepared to yield to any senator who may wish to speak to Bill C-41 at this time.

Order stands.

[Senator Perrault.]

CRIMINAL LAW AMENDMENT BILL, 1975

SECOND READING—DEBATE ADJOURNED

Hon. Léopold Langlois moved the second reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

He said: Honourable senators, those of us who have been here a little while will recall that every few years we are asked to consider amendments to the Criminal Code. These amendments are usually either procedural in nature or intended to cure defects in drafting. Sometimes a substantive amendment either creates a new crime or redefines existing criminal acts. These amendments are always important and necessary. Indeed, anything dealing with the criminal law of Canada is important but, in my view, these measures that are introduced and passed every few years can be regarded as housekeeping measures, generally speaking. Some of the amendments which we have been asked to consider today fall in this later category. Others go much further.

It is no secret that we will shortly be asked to consider further measures designed to provide a climate of peace and security throughout our land. The totality of these measures will go a long way to achieving that precious objective. Indeed, the government is committed to a review of all aspects of criminal law, substantive, procedural and evidentiary, to ensure that the law and those closely connected with it serve the needs of our ever-changing Canadian society. As parliamentarians, we have a duty to protect the members of our society from all threats to their well-being, whether the threats be physical or economic. It is our duty to respond quickly and firmly to any development which threatens the ability of Canadians to enjoy a sense of safety in public places and to have no fear whatsoever for the well-being of their children, whether in school or at play. It is our duty to see that our policemen receive the support necessary for the performance of their already difficult tasks. I believe that these amendments are in fulfillment of that duty. I know that all members of this chamber—and not only those of the legal profession—realize the need for some changes in Canadian criminal law. After considering these amendments, I believe that most will conclude, as I have, that these changes will satisfy the expectations of informed Canadians as to what Canadian criminal law should be.

● (1420)

Honourable senators, permit me to outline briefly the import and object of the most important of these objectives, which affect criminal law, both substantively and procedurally. Under these amendments it will become an offence to threaten to commit murder or to assault or to threaten to kidnap where the intended victim is a diplomat or other internationally protected person. I refer you to clauses 2(1), 3, 33 and 34 of the bill.

It will also become an offence to attack the residence or offices of internationally protected persons. The need for such an amendment is obvious considering recent events throughout the world. Canada has assumed certain obligations in this respect under the Vienna Convention on Diplomatic Relations, and these amendments will facilitate the discharge of our international responsibilities.

With regard to drinking and driving, one feature of the amendments will allow police to conduct roadside screening and to take the drinking driver off the road before he causes an accident. Here I refer you to clauses 14, 15, 16, 17, 18. 20, 72, 85 and 102 of the bill. While the amendments provide for heavier maximum fines and longer maximum periods of detention than previously, there is also provision for the judge to grant a conditional discharge to allow the accused driver to undergo treatment and undertake a program for alcohol abuse.

Other amendments deal with bookmaking and operating a messenger service to place bets. I refer honourable senators to clauses 11 and 12 of the bill.

There is provision allowing interprovincial sale of cards or tickets of lottery schemes where authorized by agreements among provincial governments.

The practice of using telecommunication facilities in a way that avoids the charge for the use thereof has become more prevalent, and an amendment is proposed to deal with those who possess, manufacture or distribute the so-called "blackbox" which enables the user to avoid the usual attendant charge.

Amendments are proposed to provide greater protection to the victim, the complainant, where the charge is rape or related sexual offences, As we all know, in most cases such trials are an ordeal for the innocent victim. The amendments would prevent defence counsel from cross examining the victim as to her previous sexual conduct with other than the accused, unless defence counsel were able to convince the presiding judge that the interest of justice would be better served by allowing this line of questioning. Another measure designed to save the victim from embarrassment would allow the judge to exclude the public from the trial or any of the proceedings. A judge would be required to state his reasons if he did not exclude the public. Along the same lines, on request a judge shall make an order prohibiting the publication of the identity of the complainant.

A further amendment would require the judge to give reasons in writing for not granting a motion to change the place of trial. The victim in a rape trial or the trial of some other sexual offence deserves these simple protections, which, of course, in no way affect the presumption of innocence or any other possible defence.

At this time a judge presiding over a rape trial, or a trial in relation to any other sexual offence, must, in conformity with section 142 of the Criminal Code, warn or instruct the jury that it is not safe to find the accused guilty on the uncorroborated evidence of the complainant. Bill C-41 proposes that section 142 be repealed and that trials in relation to such charges be conducted on exactly the same basis as any other offence under the Criminal Code.

Numerous representations have been made in support of the proposed amendment, as well as some supporting the present state of the law. This amendment is proposed because it is felt that the warning is no longer necessary to ensure a fair trial for the accused. The test of guilt beyond a reasonable doubt applies to all other offences without technical legal requirements. The amendment is introduced because it is felt that our criminal justice system and our citizenry, from among whom juries are chosen, have reached a level of maturity and sophistication whereby evidence can properly be assessed without this warning.

Even without the corroboration requirement, evidence of a corroborative nature will usually be presented at a rape trial just as it is now presented in the trials of other criminal offences. It is rare, indeed, that any criminal case will proceed to trial solely on the basis of the complainant's testimony against that of the accused. But just as this possibility is not excluded in other criminal trials, nor should it be excluded in a rape trial.

The mandatory warning section presently goes on to say that in any case the jury is entitled to convict if it is satisfied beyond a reasonable doubt that the evidence of the victim is true. All juries are charged or instructed in these words, and it is this principle that affords the greatest protection for an accused, regardless of the charge or the method of trial he has chosen.

Because criminals use the borders of Canada and other countries to their advantage, because they employ international borders to protect themselves against the efforts of law enforcement agencies to put an end to their criminal activities, two measures are proposed in this bill to cover various fact situations. Here I refer to clause 29 of the bill. Firstly, it is proposed to make it an offence to knowingly possess the converted proceeds of an illegal act, whether committed in Canada or not. This amendment is directed at stopping the prevailing practice of committing a crime in one city or country and "laundering," so to speak, the proceeds of that crime by passing them through various front companies and even legitimate institutions, and perhaps converting them to some form of holding in another city or country. The proceeds of crimes are often traceable, but because they have been converted into some other form, no prosecution is presently possible.

The other provision, directed at deterring the activities of terrorist organizations and/or organized crime, is the proposal to make it an offence to conspire in Canada to commit an offence in any other country or to conspire outside Canada to commit an offence in this country. In this respect I refer to clause 36 of the bill. The need for these proposals has been shown time and again over the last few years with regard to the activities of large, foreign-based, so-called investment corporations that suddenly collapse, leaving the directors wealthy men while defrauding well-meaning Canadians of their investments. Similarly, the planning operations of various terrorist groups outside the country will be covered by this law if they direct their activities towards this country.

As a result of certain abuses which occurred with regard to the law concerning judicial interim release, commonly known as bail, this bill proposes a change in the principle presently applying, and here I refer to clause 47(1), (3), (4), (5) and (8), as well as to clauses 51, 52 and 53, of the bill.

● (1430)

At the present time a person accused of having committed a criminal offence must be released, either conditionally or unconditionally, unless the Crown establishes on a balance of probabilities that his detention is justified in the public interest. This bill sets out four situations where the onus is on the accused to satisfy the court that he should be released pending his trial.

First, a non-resident or foreign accused will bear the onus of establishing that he is a fit candidate for release pending trial. The present law with regard to foreign accused persons provides that a court may require the accused to deposit cash or some other valuable security to ensure his appearance at trial. If accused persons, in cases where this type of deposit is required, are prepared to lose that deposit—and may have done exactly that—the result is that those accused are never brought to trial. This proposed amendment in no way affects the presumption of innocence in the trial process. The principle of consistent and equal application of the law designed to ensure that all accused, Canadian and foreign, are brought to trial requires this change.

The second situation where the accused person has the onus of establishing that he should be released pending trial occurs where that person is awaiting trial on a previous indictable offence. I am certain that each senator has been made aware of some outrageous situations that have developed where a person awaiting trial on two, three or four charges has been granted bail after a subsequent charge has been laid against him. This provision does not remove all possibility of release, but would place upon the accused the responsibility for showing that the public interest will not suffer if release is granted. This situation has developed because the courts have placed undue emphasis on the primary grounds for retaining an accused in custody, which is to ensure his appearance at the trial, to the detriment oftentimes of the secondary ground, which deals with the public interest and the protection of the public.

The third situation concerns an accused who had previously breached the release provisions which he had undertaken to obey. The ordinary lesson of human experience tells us that this person must now demonstrate that he is a suitable candidate for release pending trial. We are already asking too much of our police officers if we expect them to apprehend someone for having committed an offence, and then to apprehend him again so that he may be made to appear at his trial. The present law is that the police may have to go through this exercise time and time again with regard to the same accused. This amendment would have them do it once and at that point the accused bears the onus of convincing a court that he may be released pending his trial.

The fourth situation which shifts the onus to the accused occurs when the offence with which he is charged is one of the following: murder, conspiracy to commit murder, trafficking in or importing narcotics, and conspiracy to traffic in or import narcotics. The obvious seriousness of these offences dictates this deviation from the general principle.

In a further effort to bring the interests of society and those of accused persons in balance, this bill proposes that the words "involving serious harm" be deleted from the paragraph dealing with the secondary ground.

Here, honourable senators, I refer to clause 57 of the bill, amending section 47(7)(b) of the code. This measure does not affect the usual onus which remains with the Crown. It does lighten the burden so that if the Crown establishes a substantial likelihood of the commission of a criminal offence, as opposed to the present test of a "criminal offence involving serious harm," the courts would detain the accused. In effect, this proposal would have the law state "any criminal offence resulting in serious harm" rather than leaving the courts to make a highly questionable and subjective distinction.

The amendment which I want to discuss at this time is one which deals with appeals from decisions on summary conviction charges. Here, honourable senators, I refer to clauses 89, 94 and 95 of the bill. At present, one method of appeal is by way of trial *de novo* before a judge of a county or district court, or, in the province of Quebec, a judge of the superior court. This method is a relic from the days when most summary conviction matters were heard by lay magistrates—magistrates with no legal training—and it was then considered proper to provide for a means of placing that same evidence before a judge with a proper legal background.

The original proposal of the government was to abolish appeals by way of trial *de novo* altogether. This was amended in the committee of the other place to grant such appeals with the permission of the judge of the court that would hear the trial *de novo*. This amendment retains the general principle of original proposal and yet gives it a sophistication and flexibility which is also desirable.

These are the aspects of this bill which are considered the most important.

There is, of course, another matter which I should mention because it is a rather new occurrence, and one which has been the subject of a great deal of publicity. The amendment has been called the Morgentaler amendment. This amendment has the effect of preventing our courts of appeal from changing an acquittal verdict given by a jury in a lower court. Honourable senators will recall that important trial which received a great deal of publicity when an appeal court reversed the "not guilty" verdict of the jury to a "guilty" verdict, and ordered the judge of the lower court to pass sentence.

It was stated in the judgment handed down by the Supreme Court of Canada, especially in the remarks of the Honourable Mr. Justice Louis-Philippe Pigeon, that this was without precedent in Canadian jurisprudence. Everyone became aware of the consequence of this judgment when the Minister of Justice ordered a new trial for Dr. Morgentaler.

The present law is amended to prevent repetition of such an occurence in the future.

Senator Flynn: Why?

Senator Langlois: I believe the reason is quite evident.

Senator Flynn: I don't think so.

Senator Langlois: As the former Prime Minister of Canada, the Right Honourable John G. Diefenbaker, said in the other place, it leads to the destruction of the jury system.

Senator Flynn: Not so.

Senator Langlois: I am only repeating what he said in the other place.

Senator Flynn: Don't be a mere repeater.

Senator Langlois: He was your former leader.

Senator Flynn: That doesn't matter. I always think for myself.

Senator Langlois: However, this is a reason with which I am in accord.

Senator Flynn: If you have no better reason than that—

Senator Langlois: I do not deny my honourable friend the right to disagree with his former leader or with me.

Senator Flynn: I am surprised that you have no better reason than that.

Senator Langlois: It is a very good and valid reason, and my honourable friend knows that.

Senator Fournier (de Lanaudière): It is a good answer.

Senator Langlois: Many other subject matters are dealt with in this bill which, to my mind, warrant our serious consideration and support. I commend these amendments to honourable senators.

Before resuming my seat I would state that it is presently my intention, if this bill receives second reading in this chamber, to move that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

● (1440)

Senator Flynn: I will move the adjournment of the debate.

Senator Perrault: What is there left to say?

Senator Connolly: Honourable senators, if I may, I should like to put a question to the sponsor of the bill. I did not quite follow what he said about the position of the court in cases of serious crimes such as murder, conspiracy to commit murder, trafficking in narcotics and the importation of narcotics, where the problem of detention before trial arises. Did I understand the proposal of the bill to be that detention is mandatory in such cases, or is it discretionary when the accused is arraigned?

Senator Langlois: I assume the honourable senator is referring to the shifting of the onus from the Crown to the accused in cases of crimes of this nature. Because of the seriousness of the offences of murder, conspiracy to commit murder, trafficking in or importing narcotics and conspiracy to traffic in or import narcotics, the onus is shifted, and it becomes mandatory for the accused to convince the court that he should be released pending trial.

On motion of Senator Flynn, debate adjourned.

CRIMINAL CODE (COMMUTATION OF DEATH SENTENCE)

BILL TO AMEND—SECOND READING—ORDER DISCHARGED AND BILL WITHDRAWN

On the Order:

Resuming the debate on the motion, in amendment, of the Honourable Senator Neiman, seconded by the Honourable Senator Norrie, to the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Eudes, for the second reading of the Bill S-21, intituled: "An Act to amend the Criminal Code (commutation of death sentence)".—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Honourable senators, this item has stood for some time. I should like to say two things: First, that I am in sympathy with the objective of the sponsor of the bill, but, like many other senators, I am not too sure about the method the bill would have us adopt; second, that this bill was likely introduced to force the government into making a decision of some kind, and since it appears that this is about to be done there does not now seem to be any particular reason for continuing the item on the Order Paper. Unless someone else wishes to speak, I would have no objection to the sponsor's withdrawing the bill, if that is what he wishes to do. If he prefers that the question be put, I would not disagree with that either.

Senator Robichaud: Honourable senators, this bill has been on the Order Paper for quite some time. I believe all honourable senators knew something was going on in the other place by way of amending the Criminal Code so that eventually we would have something to work on. The debate which has taken place on Bill S-21 has, in my opinion, been worthwhile in many respects. It has enabled us to receive the opinions of highly qualified and knowledgeable members of this house on a matter of national interest, namely, capital punishment. I shall not speak about capital punishment today except to say that it is a matter of personal conscience: one either believes in it or does not believe in it, and that is all there is to it. I doubt that we can change that.

The debate which has taken place here has been useful. Those senators who participated in it have given the people of Canada their opinions and feelings on capital punishment. I think that is sufficient, and that we need not debate it any further.

In my opinion, we should drop this item from the Orders of the Day now. With the consent of the seconder, Senator Eudes, I move that the bill be withdrawn. Possibly at some time in the future it can be reintroduced, if that is considered appropriate.

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

Hon. Senators: Agreed.

Motion agreed to.

PRIVILEGES AND IMMUNITIES OF SENATORS

MOTION TO APPOINT SPECIAL COMMITTEE—ORDER DISCHARGED AND MOTION WITHDRAWN

On the Order:

Resuming the debate on the motion of the Honourable Senator Perrault, P.C., seconded by the Honourable Senator Langlois:

That a special committee of the Senate be appointed to examine and report upon the privileges and immunities that apply to members of the Senate within the precincts of the Senate, and the powers of the Speaker in respect thereof. (*Honourable Senator Petten*).

Senator Petten: Honourable senators, I defer to my leader.

Senator Flynn: As usual. What else is new?

An Hon. Senator: How sweet it is!

Senator Perrault: Honourable senators, it is not my intention now to make a major speech on this particular motion. I merely wish to say that because certain matters related to the privileges and immunities of members of the Senate have come before the courts recently, it is not, in my view, appropriate at this time to proceed with this motion.

In light of this situation, and in accordance with the view expressed by a number of other senators, I move, with leave of the Senate, that the order be discharged and the motion withdrawn.

Senator Flynn: Honourable senators, I have no objection to the suggestion of the Leader of the Government, but I should like to say that I cannot associate myself with the reason he gives, namely, that there are matters before the courts affecting this problem. I cannot agree with that at all. The only matter before the courts is an action taken by Sky Shops against a member of the other place in respect of matters which are not related at all to this motion. I cannot agree with the leader, therefore.

The matter which gave rise to the incident which led to this motion did concern a member of this house, but that matter was not at all what we were asking the committee to investigate. We wanted them to look into the privileges and immunities of senators to ascertain what they were, if indeed we had any. If the Leader of the Government is worried that some people might conclude that this committee was being struck because of, or to look into, the Sky Shops business, then I would agree that that is perhaps a legitimate source of concern. But I would have preferred that he give that as the reason for withdrawing his motion.

Naturally, I reserve the right to raise this question again—perhaps at a more appropriate time. Certainly, I think the question, and our going into it in depth, is important.

Senator Perrault: Honourable senators, that is certainly an allied reason for my suggesting that the motion be withdrawn at this time.

● (1450)

In past weeks there has been comment in the media, as honourable senators have noted, suggesting that this proposal for a special committee is really designed to preserve certain rights for the Senate which are not available to other members of the public. I think our intent has been misconstrued by at least some observers in this country, and I know that all honourable senators believe this to be a totally incorrect construction of the purpose of this proposal.

I agree with the Leader of the Opposition that it may be more appropriate to bring this matter back for further consideration by the Senate at some future time. There is no doubt but that it is an important question. In moving the motion, I made some comments on this particular subject. I stand by those comments. I know that the Leader of the Opposition also stands by the comments he made at that time. I agree with him, however, that for a number of reasons this is not the most appropriate time for the Senate to proceed with this examination.

Senator Forsey: Honourable senators, I am very glad to hear the Leader of the Government and the Leader of the Opposition say what they have about the possibility of raising this matter again at some other time, because it seems to me that the discussion which took place on this subject earlier revealed a considerable degree of uncertainty about exactly what the privileges of senators were in circumstances of this kind, and I think it may be important that at some suitable time—and perhaps this is not a suitable time—this thing should be cleared up. Otherwise, another incident of the sort might occur and we shall be plunged again into the twilight zone in which we found ourselves on the earlier occasion and would not know exactly what was what or who was who or who could give the necessary permission, if permission can be given, and what the proper steps are to take. I think in the long run it is a matter of considerable importance to the Senate, and should not be allowed simply to go by default. I hope we have not got to the stage where years will pass, and I shall be long gone from this chamber, and the thing will come up again in a fresh crisis.

Senator Perrault: It may be very appropriate at some point in the future to refer the whole matter to one of the standing committees. I agree with the honourable senator that it is an important question, but I agree as well with the thought that has been expressed by the Leader of the Opposition that this may not be the most appropriate time. As I say, it is an important question that must be dealt with, but perhaps there will be a better time for it.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, February 10, at 8 p.m.

THE SENATE

Tuesday, February 10, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Baldwin had been substituted for that of Mr. Balfour on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

DOCUMENTS TABLED

Senator Langlois tabled:

Copies of Statement made by the Secretary of State for External Affairs to the House of Commons on February 5, 1976, on the Conference on International Economic Co-operation.

Copies of Order in Council P.C. 1976-139, dated January 17, 1976, amending Schedule I to the Canada Grain Act, effective October 1, 1976, pursuant to section 15(6) of the said Act, Chapter 7, Statutes of Canada, 1970-71-72.

Statement of the Chartered Banks of Canada showing Revenue, Expenses and Other Information for the fiscal year ended October 31, 1975, pursuant to section 119(1) of the Bank Act, Chapter B-1, R.S.C., 1970.

Copies of Report, dated January 1976, of the Law Reform Commission of Canada entitled "Disposition and Sentences in the Criminal Process—Guidelines", pursuant to section 18 of the Law Reform Commission Act, Chapter 23 (1st Supplement), R.C.S., 1970, together with explanatory notes.

Copies of document entitled "Local Initiatives Program 1975/76—The Allocation Process", issued by the Department of Manpower and Immigration.

WESTERN GRAIN STABILIZATION BILL

SECOND READING

The Senate resumed from Wednesday, February 4, the debate on the motion of Senator McDonald for second reading of Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof.

Hon. Paul Yuzyk: Honourable senators, the sponsor of Bill C-41, Senator McDonald, presented a good, lucid explanation of the main features of the Western Grain Stabilization Bill, which reached this chamber last week. It made my second reading of the 51 clauses, encompassing 44 pages in the two official languages, more understandable, especially if I remind honourable senators that my background had little to do with agriculture, except indirectly when I was a teacher in my early years in farming districts in Saskatchewan. Senator McDonald's comprehension of farming and the problems of agriculture is much greater than mine. However, I believe that I have some idea of the general problems in agriculture and a genuine interest in helping to improve the lot of the farmer. We are all aware that a healthy agricultural economy contributes enormously to a sound general economy of the country.

We know that the success of agriculture depends on weather and markets. There are years of high prices and years of low prices, years of abundant crops and years of crop failure, in many cases for extended periods of time. These frequent drastic fluctuations in the incomes of the producers, with their boom-and-bust cycles, have had harmful effects on agriculture, causing many prairie farmers to go bankrupt and to abandon the industry which is so vital to our country.

The instability of grain farming has been of concern to government and the political parties, no doubt from the time when Manitoba and later Saskatchewan and Alberta became provinces in Confederation. All parties, I believe, have in the past several decades favoured schemes to eliminate the instability factors and establish stabilization plans. Therefore, the idea of western grain stabilization is not new. What is different in this piece of legislation is that it comes to us with more specific and concrete features.

Bill C-41 has its roots in Bill C-244, which was initiated in the other house by the Honourable Otto Lang in 1969, after the establishment of the Grains Administration of the Government of Canada, composed of representatives of the Department of Agriculture, the Department of Industry, Trade and Commerce, the Ministry of Transport, and several special advisers. This administrative structure of government agencies involved in the grains industry was an attempt to coordinate their efforts in this field, and resulted in the presentation of Bill C-244.

A heated debate took place, particularly over the compulsory feature of the plan and the fact that the cost of production had not been taken into consideration. The opposition parties, led by Progressive Conservatives, who had the largest number of seats in the three Prairie provinces, and with the support of farm organizations and farmers in general, severely criticized the bill. Many amendments were presented, but Mr. Lang was not in the mood at that time to accept what appeared to him to be drastic changes, and so Bill C-244 was withdrawn with a commitment by the minister responsible for the Canadian Wheat Board to come back to Parliament with a new

proposal that would take into consideration the views, feelings, needs and demands of the farm organizations and farmers.

The basic principles of Bill C-41 are generally similar to the principles of the earlier piece of legislation which had been withdrawn. The mechanics of the western grain stabilization fund have been fully and adequately explained by Senator McDonald. It will not be necessary, therefore, for me to repeat these details, except to emphasize that the Government of Canada will guarantee the solvency of this fund.

The plan takes the cost of production factors directly into consideration, which previously had been a point of contention. In order to appeal to the farmers, the compulsory aspect of the previous legislation has now been modified.

Although it is described as a voluntary plan, in the initial stage every producer will be included in the plan. However, each farmer will have the option in the first three years to make his decision whether or not he wishes to continue participation. In other words, in the three-year period he has the opportunity to opt out of the plan by a simple notification. He still has one more opportunity to re-enter the plan, but as a conditional participant. A 10 per cent penalty will be imposed on any payments that will be made from the stabilization fund to such a farmer in the first three years of his renewed participation, and there will be adjustments of interest. After that he becomes a full participant once more.

The provisions of this plan, as outlined in Bill C-41, have been endorsed in general by farmers through many of their institutions and organizations. Among these are the Canadian Federation of Agriculture and the Saskatchewan Wheat Pool.

The Western Agricultural Conference, which held its annual meeting in Regina on January 15 this year, adopted the following policy:

> That the grains stabilization legislation be adopted at an early date and certainly prior to the completion of the current session of Parliament.

● (2010)

The participating members of this conference were the Alberta Unifarm, the Saskatchewan Federation of Agriculture, the Manitoba Farm Bureau, and the United Grain Growers, representative of the Prairie provinces. It is obviously apparent that this piece of legislation has the support of the majority of the grain producers.

I believe that some clauses of this bill require more explanation and elaboration. Knowing that the minister responsible for the Canadian Wheat Board and departmental officials from the Department of Agriculture will be present when the committee will be considering this bill, I should like to raise some questions for clarification. Perhaps the sponsor of the bill in the Senate will want to deal with some of these questions when he is closing the debate on second reading.

The other day I did raise the question of why this proposed act is to be administered by the Canadian Wheat Board. Since this legislation is a form of income protection and an incomes scheme similar to insurance, it would appear more logical to have it administered by the Department of Agriculture, which is responsible for the implementation of agricultural policy. Since this is a gigantic plan, quite complicated and complex, it would appear that it would require a large bureaucracy scattered throughout the Prairies to administer it. How large a bureaucracy is anticipated and where will the headquarters be situated?

The Canadian Wheat Board will be in charge of the administration. I am therefore assuming that the main office will be in Winnipeg. Will there be branch offices and, if so, where will they be located?

The cost of the administration of the western grain stabilization plan throughout the vast territory would appear to be enormous, if not astronomical. I should like to receive a calculated estimate of the operational expenses of this plan in its initial stages, as well as on an annual basis after it is fully established.

There are crop insurance plans in operation in Manitoba, Saskatchewan and Alberta. Will the grain stabilization plan be related in any way to these crop insurance programs, which also cover farmers who experience crop failures and disasters? The grain stabilization plan, as presented in Bill C-41, is designed to operate on a vast territorial prairie basis throughout Manitoba, Saskatchewan, Alberta and, possibly, other provinces and territories where grain farming is carried on. Some thought must have been given that it might be more efficient or practical to break down the administration into smaller regions which would have similar conditions and problems. How does the government regard the practicality of regionalization, and what are the facts and arguments which are used to reject this method of administration?

I am aware that there are persons who suggest that the stabilization plan would have a greater appeal to farmers were it set up on an individual basis, similar to individual insurance policies. Farmers could have individual accounts upon which to draw. What are the arguments against an individual plan for each individual grain producer?

There is the important question of the cost of production. The legislation does itemize some of these costs, such as property taxes, seed, fertilizers, pesticides, operation of machinery, hired labour, and so forth, which are termed "cash costs." We know that the Income Tax Act allows for depreciation in calculating the value of buildings, equipment, machinery and instruments required for certain kinds of work and operations. Why has depreciation not been included as an item of the cost of production?

I am also wondering about the effectiveness of the grain stabilization benefits to producers during several successive years of hard times. What if the grain markets were depressed for a period of over five years—that is, for six, seven or eight years—and the prices of grain during this extended period continued to drop and stay low? The pay-out at the end of such a bad cycle would be minimal, and perhaps not even forthcoming. What meaning would income stabilization have then?

I am also thinking about the lot of the farmer in certain areas of the country which for several years, due to adverse weather conditions or acts of God, suffer crop failures and inadequate farmers' income. Yet throughout the vast prairie region the great majority of farmers could

be experiencing a boom and the averaging of the farm income would not necessitate general pay-outs for several successive years. Is there any provision made under such circumstances for the grain stabilization fund to come to the assistance of farmers in areas that were stricken with misfortune during the general boom cycle?

These are some of the questions that require attention before the bill is passed in this chamber. There are senators who have a good knowledge of farming operations and economics. They should participate in this debate and in the discussions of the Standing Senate Committee on Agriculture this week, when the operation of the grain stabilization fund will be fully analyzed to make sure that the farmer is given a square deal.

We in the Opposition regard Bill C-41 as a much improved piece of legislation and therefore endorse it in principle. After further study in committee, where we shall seek satisfactory answers to questions and perhaps some alterations to make the bill more effective, we intend to support its passage on third reading. Our hope is that grain stabilization will help to improve the lot of the farmer and his contribution to the economy of Canada, and a better life for all Canadians.

Hon. A. Hamilton McDonald: Honourable senators—

The Hon. the Speaker: I wish to inform honourable senators that if the Honourable Senator McDonald speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator McDonald: Honourable senators, I shall attempt to answer some of the questions posed by Senator Yuzyk. In those areas where I am not able to give an adequate answer I am sure his questions will be put to the Standing Senate Committee on Agriculture when this bill reaches it.

He first asked how this program was to be administered. It is my understanding that there is a western grain stabilization administration which will administer the bill. The connection that the Canadian Wheat Board will have is, of course, in the fact that it is the main selling agent for prairie grains. They will, therefore, be doing the collecting at the country elevator points of delivery, and if the total of $500, which is the maximum, is not collected there, they will make deductions from the final payments and so on. The individual farmer will make his maximum contribution of $500, not only through the immediate day-to-day or month-to-month deliveries to the country elevator system, but also through any final or interim payment that may be made.

● (2020)

Therefore, we can see that the administration will not be by the Canadian Wheat Board, but by the western grain stabilization administration.

The senator asked where the headquarters will be. I do not know.

He went further to ask if there will be branch offices. I cannot see the need for any branch offices, but this is my own personal opinion. The reason I say that is that this particular act makes provision for the calculation of total sales from the prairie region, that region where the act applies, and from those total sales the cost of production is deducted. Using those items that the senator referred to, a figure is arrived at which is the net income to the farmers in this total region. If the income is below the five-year average, then there will be a payment made out of the fund. There is no need for branch offices.

This bill is not designed to take care of a crop failure in a particular area. As Senator Yuzyk mentioned, today most of the provinces of Canada have a crop insurance program. I believe all provinces affected by this particular piece of legislation have crop insurance. This is not a crop insurance program; it is a means of stabilizing income from the sale of grain over a period of years. When there is a crop failure in a particular area, then crop insurance, which is a shared cost program between the provinces and the federal government, comes into play.

This is the reason, in my view, why it is not necessary to have branch offices. This is the reason, in my view, why it is not necessary for this plan to be based on an individual producer's production and costs. In that case crop insurance is going to take care of his problems. This bill is designed to take care of a problem that concerns the whole Prairie region, where the vast majority of cereal grains are produced in Canada.

We are looking at two different problems, and there are two different pieces of legislation to deal with them. This one is to deal with low sales, low prices, drought or some other catastrophe that covers a large area. It is not meant to deal with a hailstorm, grasshoppers or drought in a confined area. Crop insurance is designed to take care of those particular problems.

With reference to the costs involved in the administration of the plan, I do not know what they will be and I cannot give an estimate, although I think they would be very small.

It is not very difficult to arrive at the total sales of cereal grain and the amount of money involved, and it is not very difficult to subtract from that total sum the cost of production.

The reason why depreciation is not included under the cost of production is that, when you are talking about cost, the only item taken into consideration is cash outlays. Depreciation on buildings and equipment is not a cash outlay in a given year, but all of those costs such as fuel, taxes, insurance, repairs, tires, tubes, anti-freeze, et cetera, represent cash that the farmer had to pay out of his pocket in order to produce a crop that he either did not sell because of restricted markets, or sold at a very low price, and consequently his income was not up to the five-year average.

Senator Yuzyk mentioned that this program may get into difficulties, or may not provide the benefits that we hope it will. If we get into an extended period of either very small sales or a combination of small sales and low prices and drought, then I agree there is that possibility. Under those circumstances, this program might not meet the needs of the day. I hope such circumstances never prevail, but if they do, then my own personal view is that certain amendments will have to be made to the legislation. If we find ourselves in circumstances similar to those of the thirties, this legislation would not be particularly meaningful since there would be virtually no payments

under it if the period of drought and decreased prices were to extend over such a long time.

I think Senator Yuzyk will agree with me that farming practices in the Prairies have changed a good deal since the 1930s. I doubt very much that the producers of cereal grains will see another period such as was experienced in the 1930s. There are many built-in factors to prevent a recurrence of that. Moreover, world conditions are much different today from what they were then.

It is my hope that such conditions will not occur again, but anything is possible so I suppose they could. But, I repeat that if that were to happen then, in my view, it would be necessary to amend this legislation in order to make it do the job it is designed to do. Obviously, only the future will tell. If we find ourselves in such conditions I will be one of the first to complain.

I think I have answered the main questions the honourable senator asked. If my answers are not satisfactory, I hope he will put the same questions to those people who will be present when the bill is before the committee.

Honourable senators, if the bill receives second reading I shall move that it be referred to committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator McDonald moved that the bill be referred to the Standing Senate Committee on Agriculture.

Motion agreed to.

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—DEBATE ADJOURNED

Hon. Paul Desruisseaux rose pursuant to notice:

> That he will call the attention of the Senate to the question of total free trade as an economic consideration for Canada.

He said:

[*Translation*]

Honourable senators, total free trade, as recommended by some economists and recently envisaged by the Economic Council of Canada to help expand our foreign trade, deserves serious consideration.

We now know that Keynes' theories were adopted because of their palatable ability to indefinitely postpone our debt problems at all levels, and thereby stimulate the economy through indebtedness. But they now confront us with huge and constantly increasing obligations, the meeting of which would truly impoverish us. With all its benefits, Keynes' policy has been very costly indeed. We succeeded in building up a national debt of astronomical proportions, and the payment of interest absorbs a growing part of all government revenues. The money we have been keeping in our pocket does not in fact belong to us.

And because of our obligations we will leave behind an embarrassing deficit and a heavy debt burden for our children and future generations to pay, for which history will hold us responsible and may even condemn us.

[Senator McDonald.]

● (2030)

This is one of the reasons why I constantly emphasize the importance of carefully choosing an economic policy which entails no instability, especially since we are now reviewing our economic guidelines and rethinking our means of developing international trade with industrialized and underdeveloped countries.

It has become a fashion for some well-known economists to favour for Canada an absolute trading policy, which, in my opinion, is far from rational.

I believe that to be effective, free trade must occur in some areas of our economy and under specific conditions which do not involve any element which could create a significant deficit in our economic balance. It remains difficult for the practical man to understand how there can exist a country like ours, which has a high standard of living and strong safeguards against high unemployment, where families spend more because of extreme temperatures, but obtain from the state medical aid, a retirement pension and a minimum guaranteed income in case of unemployment, while the state endeavours to obtain the necessary funds or to assume debts which will eventually become payable.

It is under such conditions that our Canadian manufacturers must produce. This is why the cost of export products can double or triple when they deal with other countries which do not have to face major marginal requirements.

There are more people in Canada, and especially in Quebec and in the provinces, who count on secondary industries for their economic survival. The damage caused again recently to important sectors of secondary industries by a simple relaxation of tariff protection in certain areas, without compensating advantages in our exports, can only forecast other disasters which will result for our economy and our secondary industries from the careless and purist implementation of a totally free trade policy in Canada.

[*English*]

The secondary manufacturing industries, which would be greatly affected by absolute free trade, have been, are still and must continue to be the mainstay of Canada's economy. Their constant development is important for Canada. They are as indispensable in our economic system here as in any good system elsewhere. Without them, Canada would not be able to survive as one of the major industrial nations. William Lougheed's surveys, along with many other surveys by recognized reliable economists, support these economic views.

One does not have to be an economic scholar to affirm that, with regard to our national economy, in order to increase the growth of our gross national product, secondary manufacturing will have to be nurtured with a view to playing a much stronger role in our economic life. Realistic economic policies for long-term application will have to be agreed on, first with our provinces, then with foreign traders. These economic policies will have to be reliable, uniform and stable. They will have to be carried out with the avowed object of putting our Canadian economy on an assured long-term line of favourable trade balances so as to

make up the recent losses in our international trade balances. There is no place for adventure in good economic policies. I believe the adoption of a purist free trade policy will not provide the needed good results in Canada. Indeed, it would make these quite impossible to attain.

Along with many others, I do not believe that secondary industry can develop freely enough and in the most effective direction if it has to exist, as has been said, only as an extension of the economy of the nineteenth century or as a mere adjunct to our primary industry or as an appendage of our newer, expanding, but less-developed service industry. We must be fully assured that no free trade arrangements will tend to lead to the destruction of some of our secondary industries, especially in certain highly vulnerable sectors; indeed, we must see to it that this does not happen.

The secondary manufacturing industries, when producing at high capacity, create important economic values with only modest material resources. They nevertheless make an important contribution to the growth of the GNP and the nation's productivity, which make the nation competitive and progressive. It must be acknowledged that it also contributes to the higher standard of living of its citizens.

● (2040)

Canada, young as it is in its development and beset as it is by a highly competitive world, cannot, in my opinion, afford far-reaching overt risks, or consequential adventurous chances of economic stagnancy or curtailments of the country's production, which provides our real growth and true employment. In the last two years we have witnessed the results of a relaxation of import controls, and what that has really accomplished for us. I repeat again that in my own province this general relaxation of import control has killed the glove industry, mortally wounded the shoe industry, caused the closing or the stagnation of many segments of the textile industry and the glass industry, and caused considerable instability and insecurity to occur in some of our other secondary manufacturing industries. It has made import licensees out of many of our manufacturers, generally reduced employment and helped create industrial instability.

Total free trade is now being promoted here in the hope of assuring a beneficial expansion of our international trade. There is much caution to be exercised when it means, as it does, the endangering or the disappearance of a number of our staple industries which have given us a considerable percentage of our employment and our gross national product. There is much caution to be used when there is an uneven situation between, on the one hand, Canada, which has a high standard of living—even though it has fallen from third to seventh place among the nations—maintains some of the most socialized protective policies in the world for its people, and bears a high cost in fighting extreme climatic conditions for a good part of the year, and, on the other hand, those nations with which we are trading. Those nations generally have a much lower standard of living, no social tax drain on their economies, and no need to assume the costs imposed by weather extremes. They can provide their industries with an abundance of cheap labour that does not require to be paid for leisure time, does not need full protection and fringe benefits, and is content with less than average purchasing power because its immediate needs are not great.

We are not really playing the same kind of ball game with these countries as they are playing with us. I am stunned by the recommendation of absolute free trade for Canada. Only disadvantage to Canada can come out of it. In my opinion, there is no practical possibility of advantageous absolute free trade for Canada under present circumstances. It would cost Canada many of its industries which give employment to hundreds of thousands of its people. It would quickly drain our economy for the benefit of the countries with which we are dealing. The final results for Canada would be somewhat uneven and disadvantageous to Canada because of the economic inequality of the nations with which we deal. Indeed, we would simply export much less than we would import.

I agree, however, that it would not be the same if real reciprocity were arranged only in chosen favourable sectors of the economy, and if there were reciprocity within a bloc of nations which would deal more evenly because of their respective balanced purchasing powers, and where arrangements for exchange could be made in areas where a nation was at a greater disadvantage, or where a particular industry would suffer unfavourably.

In its trading and dealing with other nations, Canada must of necessity assume the position of helping its industry—its greatest employer—whenever it is necessary to avoid domestic economic stagnation, instead of applying the absolute free trade rule. In my opinion, honourable senators, we would be better served by aiding the expansion of our foreign trade with intelligent treaties of true reciprocity in the non-sensitive areas, where mutual reciprocal advantages exist and where possibilities of trade damage remain minimal. Imperfect as they have been—and except in a few known areas affecting some of our secondary industries—GATT arrangements have otherwise generally served Canada quite advantageously. We should not sacrifice or injure whole sectors of our secondary industry for some passing, questionable or risky trade advantages. These, as we have learned, never pay off as they should, and only help to worsen our unfavourable trade balances.

You may infer that I am not in agreement with the reasoning of the Economic Council of Canada as to the good which total free trade would do for Canada. There is no proof, no assurance, that it will be good for Canada. I find there are only theoretical unproven affirmations in that regard, which should not be tested by Canada.

A few months ago, Ronald McPherson, a Toronto consultant on business economics, said that "free trade could create more problems for Canada's economy than it could solve."

● (2050)

This was proven through history whenever and wherever the free trade formula was tried. Total free trade would place Canada's secondary industry in the worst possible economic position, from where it would be hard to recover at a time when four or five of its important sectors are having major difficulties because of Canada's generous import allowances.

Mr. McPherson called simplistic and naïve the recent recommendations of the Economic Council of Canada for the gradual elimination of tariff barriers between Canada and the United States, where we are already incurring a yearly trade deficit. The costs of manufacturing in Canada are certainly greater than in countries we now trade with, and because of that, he said, Canada's chances of improving her competitive position in the near future are very limited indeed.

The economist advocated a policy of protection to those industries with prices closest to world levels. He said:

> This scheme would give consumers the price restraints needed under today's conditions and would give management a fighting chance to recapture lost domestic markets. It would improve profit prospects from which the government greatly benefits. It would also help to stop the drainage of money that is much needed in the Canadian economy.
>
> On the other end, widening our export trade by the means of absolute free trade would be extremely costly to Canada, basically and economically questionable and would be conductive to an immediate weaker economical position for Canada.

At this time I would like to plead again for what was strongly advocated in 1962 by one of our valuable colleagues, Senator Maurice Lamontagne—the expansion of our trade in an Atlantic economic community, promoting gradual reciprocal trade as a mutual beneficial long-term objective.

Its first concrete goal had been embodied in one of the articles of the North Atlantic Treaty Organization, but there was really no implementation of it. There was at that time not enough recognition that everyone had become interdependent in the economic field as well as the military field.

Since 70 per cent of Canadian export trade is with the United States, I believe that it is wrong to accept or promote the idea of a "third option," providing for free trade with any group that would exclude the United States. This, however, does not rule out free trade with the United States alone, which is the largest importer of our products, bearing in mind that we have recently been in trade balance deficits with that country—last year to the extent of some $750 million.

The Economic Council has said that the basic argument against any policy to demolish trade barriers is, amazingly, that the only Canadian activity to be so threatened would be our secondary manufacturing. Well, these economists surprisingly, at least to me, discounted the employment provided by the secondary manufacturing industry. It is now 22 per cent of the labour force and is of major importance in our secondary manufacturing industry. Such an attitude is unreasonable and unacceptable. Can the unfavourable consequences be overlooked or put aside?

The electors—the workers in the steel, shoe, clothing, textile and chemical industries—could hardly be counted on to support the giving up of their industries to some foreign countries because production there would cost less because we choose to give our workers protective social and economic security that is costly. Our workers would not give up without strong resistance the right to work at their own trade, in which they have acquired a high level of skill over the years, to seek a different form of employment which might be hard for them to master. I am of the opinion that for the betterment of our present economy it would be quite possible instead to put into action other known political mechanisms capable of improving and developing further our international economy.

Total free trade faces the arguments that restrictive trade measures may be recommended to better advantage when the survival and the stability of certain social groups—the farmers or textile workers, for instance—are threatened by massive importations, and when more generally it is necessary to compensate various economic inequalities such as those that result from differences in levels of salaries or fiscal systems.

Someone, as a requisite, would have to be prepared to grant credits to countries because their trade cannot be balanced. This would require the establishment of special, uneven rules of cooperation, and would necessitate a major improvement of international credit and money convertibility.

So far, there has been an oversimplification of our problems relating to any total free trade goals for Canada. A great deal of clarification is needed before its consideration here. It would create the need to promote special harmonization, indeed political integration policies, which would presuppose the loss to the country of some of its local sovereignty to a supranational organization. I do not believe such a policy would be either acceptable or advantageous at this time for Canada. The inequality of the countries requires some adequate but special concession from Canada, which would be difficult to obtain.

● (2100)

The system of GATT arrangements, made intelligently under the reciprocity concept in non-sensitive areas and, in equalized values of imports and exports, appears to me more effective, less cumbersome and more practical than any form of the advocated total free trade policy for Canada's immediate and long-term expansion in the area of international trade. I believe the best interests of Canada would be served if the total free trade recommendations of the Economic Council were analyzed in respect of their real consequences rather than accepting, without debate, their predicted effects.

Senator Molgat: Would the honourable senator permit a question?

Senator Desruisseaux: Certainly.

Senator Molgat: During the course of your excellent speech you expressed the view that Canada was not ready for free trade at this time. When do you feel Canada could consider free trade as a viable policy?

Senator Desruisseaux: I do not want to speak like Marx, the great philosopher, who was totally in favour of free trade. Given the Third World as it exists, and with which we would have to deal, we would be at a great disadvantage. In addition, we would be at the mercy of the larger nations through supranational organizations. That is the situation as I see it.

Given the small population of Canada and the fact that many of our industries are presently struggling for surviv-

al, we could not afford to take a chance on the future by having total free trade. Because of our highly paid labour force and our high standard of living, we do not compare favourably with other nations with respect to cost of production. In spite of the fact that we have the second lowest inflation rate in the world, other nations, because of cheap labour, can produce the same quality merchandise for much less.

To cite just one example, when some of the tariff barriers in relation to textiles were removed, some of our department stores sent their representatives to other countries with garment patterns, particularly shirt patterns, and in each and every instance, according to the reports I have received, they were able to obtain the garments at less cost abroad. This happened to the extent that our manufacturers became importers.

I hope that answers your question.

Senator van Roggen: May I be permitted a question? I quite understand your concern about total free trade if by the word "total" you mean free trade by Canada with all nations of the world, because the wage scales in the Third World, as you quite properly pointed out, would make it impossible for the textile industry, for one, to exist in Canada. I did not read the report of the Economic Council as suggesting we should have worldwide free trade. It recommended a series of possibilities relative to Europe and Japan, and a third possibility of Canada-United States free trade.

Do you equally reject the idea of a phased free trade arrangement with the United States, which has wage scales and cost factors equivalent to Canada's, when the argument of the Economic Council is that this would give us the economies of scale to enable our industrial sector to grow to the size that would enable it to be competitive in the world's markets?

Senator Desruisseaux: If I may deal, first of all, with the report of the Economic Council, unless I have misinterpreted it I think it does recommend Canada's going to free trade. The Economic Council did not say it wanted the subject opened up for study. I think what the chairman said in relation to it indicates that he is in favour of it. That is not to say that he is really fighting for it. He wants it debated, and I believe a debate on the pros and cons of total free trade would be good for Canada.

In 1911, Sir Wilfrid Laurier introduced the subject of reciprocal trade treaties with the United States as a solution, and he was defeated because of it. Those were not free trade treaties; they were reciprocal trade treaties, which meant that both countries would allow certain commodities to cross the border free of tariffs. The fear at that time, of course, was that Canada's industries would be unprotected. Personally, I advocate such treaties as a solution, provided they do not adversely affect individual industries of either country. I think such a solution would be good for Canada because of its comparatively smaller market.

I hope I have answered all aspects of your question.

Senator van Roggen: You certainly have answered my question in part. I will not pursue the balance of it at this point.

Senator Fournier (de Lanaudière): If the honourable senator will permit me a comment, what he said in relation to the defeat of Sir Wilfrid Laurier in 1911 was no doubt the case in the English-speaking provinces. The Tories there were pleading, "No trade with the Yankees." In Quebec they were preaching something else, about dreadnoughts and the war; they were exploiting the nationalists, the feeling of the French-Canadians in Quebec. In the other house they were talking against the Americans, and in Quebec they were talking in favour of the Americans. That was the policy of the Tories during all that time, and we have to watch them even today.

• (2110)

Senator Desruisseaux: I am wondering if I am being asked a question. I should like to correct a view that has been expressed.

Senator Fournier (de Lanaudière): It was just a remark; it was not a question.

Senator Desruisseaux: May I make an observation on this point?

Senator Fournier (de Lanaudière): Of course.

Senator Desruisseaux: Senator Fournier mentioned Sir Wilfrid Laurier's policy at that time. I do not want to go into that in any depth, because I do not believe the problem was understood in Canada. Many books have been written on it. It is agreed that the different views should have been explored at greater length, but no answer is given.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, February 11, 1976

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

Prayers.

DISTINGUISHED VISITOR IN GALLERY

MR. ELKADI KW KUSSAI OF IRAQ

The Hon. the Speaker: Honourable senators, on your behalf I would like to welcome a distinguished visitor from Iraq, Mr. Elkadi Kw Kussai, who is visiting our country.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN SENATE MEMBERSHIP

Senator Petten, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Riley be substituted for that of the Honourable Senator Robichaud on the list of senators serving on the Standing Joint Committee on Regulations and other Statutory Instruments; and

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

Motion agreed to.

CRIMINAL LAW AMENDMENT BILL, 1975

SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, February 5, the debate on the motion of Senator Langlois for the second reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, first of all I should like to say to Senator Langlois that even though I interrupted him when he was explaining Bill C-71, I nonetheless admire the manner in which he explained it, except perhaps on this particular point: this is an omnibus bill; that is, a bill containing a great number of amendments to the Criminal Code which are not necessarily interrelated. We may very well fully agree with some of the amendments while having some misgivings about others and even oppose a few.

It is never very easy for a legislature to come to a decision about this type of legislation on second reading, because one has to approve in principle a bill dealing with several things with which one may not entirely agree.

Nevertheless, I do not think this bill raises very serious difficulties in this regard. But in other circumstances it might happen and when such bills are before us that we should consider the possibility of putting every question; in other words, of dividing the subject matter so that the views of the Senate may be accurately recorded on every question before us.

As far as I am concerned, I intend to deal only with clause 75 of the bill today. Other honourable senators on this side of the house, and probably on the other side, will deal with the other amendments provided in this piece of legislation.

[*English*]

Honourable senators, I will restrict my remarks today to the amendment provided by clause 75 of this bill, which was referred to by the sponsor of the bill, Senator Langlois, as the *Morgentaler* case.

Senator Langlois: Amendment.

Senator Flynn: Yes, the *Morgentaler* amendment.

• (1410)

This case, since it is before the courts, is *sub judice*. I shall, therefore, try valiantly to restrict my remarks simply to the principle embodied in the legislation. But that may not be easy because it is very difficult to discuss this kind of legislation without referring to some of the facts which have given rise to the amendment proposed by the government.

As honourable senators know, this amendment follows a decision of the Supreme Court of Canada rendered last year in the case of *Morgentaler vs. the Queen*, where—

Senator Connolly: What was the case?

Senator Flynn: *Morgentaler*. Am I pronouncing it incorrectly?

An Hon. Senator: It is pronounced "taller."

Senator Flynn: It is "taller" than I thought. In any event, this was a case where the accused was acquitted by a jury. The Appeal Court of Quebec found that the instructions of the judge to the jury had been wrong in law, and decided it would apply the present provision of the Criminal Code in this respect. Since the facts were admitted and since the defence offered in law was unacceptable, the appeal court decided that the verdict of the jury should be changed to one of guilty. It could have ordered a new trial but, since the facts were all admitted, it apparently saw no need.

This decision of the Appeal Court of Quebec was brought before the Supreme Court, and the Supreme Court, in a judgment of five to four, upheld the decision. Following the judgment of the Supreme Court there was an outcry all across Canada to the effect that this should not be allowed to take place. There was quite a public debate on the question.

As my honourable friend Senator Langlois mentioned the other night, an outspoken critic of the judgment was the Right Honourable John Diefenbaker, who said that the law was wrong and should be changed. He did not criticize the Supreme Court, but others did.

I tried to have my honourable friend Senator Langlois explain the amendment last week, but he replied only with an argument based on authority—that is, the viewpoint of Mr. Diefenbaker. I respect, of course, Mr. Diefenbaker's opinion, because of his great experience before the criminal courts and in Parliament, but I must point out that Mr. Diefenbaker, as well as most defence counsel, have a tendency to support any verdict of a jury when it is a verdict of acquittal.

Senator Asselin: Because these defence counsel are and were good lawyers.

Senator Flynn: My friend Senator Asselin could not resist interjecting. I respect his view. There is no doubt but that a lawyer is always very sentimental when it comes to provisions of the law which have helped him in given circumstances to win a case. And why not? It is only natural. Also, there is certainly a popular sentimental attachment to the jury system as we know it. There is no doubt about that. The general criticism, if not of the decision, at least of the provisions of the law which brought about the decision in the *Morgentaler* case, was not entirely unanimous. However, those who oppose, generally speaking, receive better press than those who sustain. Although I may not be able to convince honourable senators, I feel it is my duty to argue the other side. I think it is the duty of the Senate to consider both sides of a question.

In reading the debate in the other place and the committee proceedings of the other place, I was unable to find any dissenting view, notwithstanding that the amendment which is before us was only very reluctantly introduced by the Honourable Mr. Lang, the then Minister of Justice. It was only under the pressure of public opinion that this amendment was finally submitted to Parliament.

I repeat, the criticism of the judgment, or of the provisions of the law on which the judgment was based, was never unanimous. One individual who sustained the decision was none other than the Immediate Past President of the Canadian Bar Association, Mr. M. L. N. Somerville. He did not seek to support the provisions of the law, but he did support the decision. In a letter he wrote to the *Globe and Mail,* he made reference to a previous speech of his, and I quote:

> It is a perfectly tenable position that the only remedy available to the Crown from an improper acquittal by a jury should be a new trial.

This is what is proposed under this amendment. Continuing:

> But that is not now the law... Those people who espouse this proposition risk a profound disservice to the stability and security of this society for all members of it by mounting a furious propaganda war against a result in a specific case not to their liking, by directing a campaign of abuse and ridicule against those members of our judiciary who, in good faith and upon reasonable grounds, are attempting to uphold the rule of law in an unpopular instance.

That is, to support the decision of the court and not the provisions of the law. Dealing more particularly with what has become an amendment suggested in this legislation, Bill C-71, he went on to say:

> The province of a jury does not extend to the repeal or amendment of an Act of Parliament... Were we to admit the justification of some higher morality which operates to dispense with compliance with the laws of our land, we would be on the short, steep, slippery slope of chaos.

That comment, I believe, directs itself to the problem at hand and not to the decision of the court.

● (1420)

I think I had better explain the present system. When there is a verdict of guilty by a jury, if there is an appeal the appeal court can decide that the jury was wrong in fact and enter a verdict of not guilty. As far as the facts are concerned, the accused has all the chances in the world. There is no doubt about that. However, if the verdict is one of acquittal, the appeal court cannot intervene except on a question of law, because the general principles are simply that the jury is master of the facts but the courts are masters of the law.

Generally, when there is a conviction, the appeal court, if it finds that the verdict was not reasonable, can acquit the accused. This it can do where the jury has made an obvious mistake in fact or in law. Also, it can order a new trial. If there is a verdict of acquittal by a jury, the court of appeal will not intervene unless there was misdirection of the jury by the judge.

There presently exists this provision, and we are here invited to change it, which says that the court of appeal may in cases where a jury acquits:

> (i) enter a verdict of guilty—

Instead of a verdict of acquittal; this is the case of Morgentaler.

> —with respect to the offence of which, in its opinion, the accused should have been found guilty but for the error in law, and pass a sentence that is warranted in law, or
>
> (ii) order a new trial.

It has a choice between the two.

In the present instance, the finding of the majority of the Supreme Court was that they should apply the provision enabling them to change the verdict of acquittal to a verdict of guilty. I should like to quote the comment of the majority on the present provision of the law which we are invited to change. This is a résumé of the decision. I will not quote all the notes of the majority because it would take too long. However, I think this gives the clear opinion of the majority on the appreciation of the present legislation. They say:

> This power, of course, should be used with great circumspection, but it is particularly appropriate in this case, since the accused admitted the facts but denied his guilt only on the basis of defences in law held unavailable by the appeal courts.

In other words, in this particular case the problem was only a question of law and not one of fact.

It seems to me that we should not seek to change or adjust the law because we don't like the ultimate effect its application had in a particular case. I think it is a very bad principle to legislate because of only one case, especially one in which the majority of the Supreme Court says that the terms of the existing law are most appropriate.

It has been said by my good friend Senator Langlois that it leads to the destruction of the jury system, and he refers to Mr. Diefenbaker and others as having made similar remarks. I would say that all lawyers specializing in the defence of criminal cases would agree. As far as I am concerned, I went before a jury on a criminal case only once, and I lost. I suppose I could be prejudiced because of that particular incident, but I doubt it.

Senator Langlois: I never did.

Senator Flynn: I have never acted on behalf of the Crown, and therefore I am certainly not prejudiced in its favour.

It has frequently been argued that the Supreme Court decision in the *Morgentaler* case weakened our jury system. We should take a look at this, and the Department of Justice should have a close look at all the problems relating to the jury system and not limit itself to solving a problem in one particular case by removing the right of the appeal court to apply the law, when only a question of law is involved.

I am not taking sides on the question of abortion. I do not care about what happens to Dr. Morgentaler. I am concerned with the ultimate consequences of this amendment, if nothing else is done. I do not say that it is bad in itself. I say we are going in the wrong direction. I would have gone in the opposite direction in trying to cure this particular problem.

A journalist, after the *Morgentaler* case was heard, put it this way: Should a jury always have the last word? Remember, juries don't always acquit. Sometimes, they convict. Sometimes they too can make mistakes. Should a court of appeal be powerless to do anything about it? Does a reversal of a jury verdict tend to destroy the jury system?

These are some of the questions people have been asking since the decision of the Supreme Court of Canada. I would say that the role of the jury, its usefulness, its possible reform, its continued existence or its abolition is probably one of the most discussed subjects of judicial procedure. Generally speaking, however, people favour the retention of the jury system. I want to make it clear that I also am in favour of the jury system, but like any other human institution it has to be checked.

In Quebec, a couple of years ago, two out of every three people felt that the jury could be relied upon for a correct judgment. In the United States only 50 per cent of the people had that kind of confidence in "12 good men and women and true."

You will recall that juries originated with England's early Norman kings. The system was set up for political reasons: the distrust of a judiciary that was dependent upon government, and the desire to democratize the administration of justice. For centuries juries resisted enormous pressures by kings, parliaments and judiciaries. They brought in verdicts against the demands of each of these and all of them together.

[Senator Flynn.]

The system survives today not only because of tradition, but also because of its inherent qualities. The jury system provides a vehicle which permits the average citizen to come to grips with the legal system and see that justice is done. It forces lawyers and judges to make the law intelligible to laymen, and it gives the common man the opportunity to assess the demeanour as well as the testimony of witnesses in coming to a verdict.

● (1430)

In North America the concept of the jury is still very much linked with the fundamental principles of democracy, liberty and justice; yet the need for a jury to protect against the outrages of an uncontrolled monarchy or other similar forms of government no longer exists.

The great French magistrate, Casamayor, once wrote: "Why are criminals judged by laymen, while those guilty of less serious infractions are judged by specialists in the law?" It is a strange paradox, one which should force us to reflect upon the effectiveness of juries.

The jury system provides many safeguards for our basic liberties, safeguards of which I would not want to see us deprived. But the jury system, like any other human institution, is not infallible. It is argued by the proponents of the *Morgentaler* amendment that the decision of a jury to acquit should not be allowed to be reversed by a court of appeal. The reasoning is that juries, unlike courts of appeal, reflect the popular feelings of the times; that they give expression to changing and living jurisdiction as influenced by feeling contemporary peers rather than remote and aloof authorities.

So far as that argument is concerned, may I just mention that if we expect and want juries to give expression to popular feelings, we should bear in mind that popular feelings vary from one day to the next and from one region to another. If that were the only argument in its favour, I doubt that the jury would be retained. These same people would likely favour the contemporary tendency away from strict interpretation of the law; they would favour interpretations of the law being adapted to popular tendencies and moral convictions in matters where there is no obvious consensus.

This, of course, is the case so far as abortion is concerned, but I am not discussing that and I am not expressing any opinion on it. But I do suggest, if we have to accept these arguments, that it is a very risky business.

I would ask you to recall some of the American trials of not so long ago, where if the accused were black or Indian he was guilty, and if the victim were black or Indian his white assailant was invariably acquitted, even though there was no evidence to support a rational decision to acquit.

Those juries, too, were reflecting the popular feelings of the times and places in which they lived. Those juries, too, were giving expression to changing and living jurisdiction as influenced by feeling contemporary peers rather than remote and aloof authorities. Do not be too quick to reason that such things could not happen in contemporary, enlightened Canada. I will not try to give you any other

indication of that affirmation than those facts which you know—whether they be about abortion or other problems.

At no time have we ever been more rapidly and completely inundated by the communications media. At no time in the past have the opinions of the people been so heavily influenced by professional opinion makers and purveyors of mass hysteria. Here I might say, not from personal experience but from what I know of juries second hand, that it takes only one or two members of a jury really to orient a decision in one direction or the other. There is no doubt about that today. It may not have been the case years ago, but today it is different.

I have lately been following the experience of some of my friends who have been members of juries. With regard to one of them, I knew how he felt, I knew he would influence the jury, and he did in fact influence the jury, and it brought down the verdict that he thought it should. It would be incredibly arrogant and naive to presume that Canadians are immune from such influences and that our juries would always, unfailingly, guarantee justice that would be recognizable as such, not only today but also in the future.

The jury system, as I have said, provides valuable checks and safeguards, but it is by no means foolproof. If justice is to be done, we must not leave the jury system unprovided with the necessary checks and safeguards against abuse.

Using abortion as an example, supposing a case came to court in which all the evidence clearly indicated the guilt of the accused. Suppose further that the evidence were uncontested, and that the judge made no mistake in admitting evidence or in charging the jury. I repeat: the evidence is clear and uncontested; it points to the guilt of the accused, and no error in law is made by the judge. Yet let us suppose the jury comes in with a verdict of acquittal. According to current jurisprudence, though this verdict is unreasonable and is unsupported by the evidence, it does not constitute an error in law, and the court of appeal will not hear an appeal against it. This worries me.

The question I want to put before you, and I think it is probably the main question, is, where does the jurisdiction of a jury that has mastered the facts end, and where does the question of law commence? According to the jurisprudence up to now—and this is what I disagree with—a jury cannot make an error in law. I say, however, that it can. I say that in a case where the facts are admitted, where the defence is based only on arguments in law, and where there is no error on the part of the judge in instructing the jury, if the jury finds the man not guilty, it means one of two things: either the jury did not understand the law or it did not want to apply it. In my thinking there is an error in law in both cases.

This particular problem, I suggest, should not be corrected by depriving the court of appeal of the right to substitute a verdict of guilty in the case of an acquittal when an error in law has been made by the judge; but I would allow an appeal to a higher court, and would uphold the power of the court to change even a verdict of acquittal, where there has been no error in law on the part of the judge but where the error in law is really one that has been made by the jury. I do not object to the idea of ordering a new trial every time. A new trial will prevent the problem from recurring, but if that point arrives at which it will be impossible, in the opinion of the court, to find a jury that will uphold the law, that will observe the law, and will restrict itself to its role, which is simply to weigh the evidence, I say to you that we should give the power to a court of appeal to intervene. I would say this not only as in the present case where there is an error in law made by the judge, but also where there is an error in law made by the jury, in the sense that I have just outlined. Otherwise, the enforcement of the law will be an unpredictable thing. In one region of the country someone may be found guilty on the basis of certain facts, and, on the basis of the same facts, in another part of the country another person may be acquitted. I think it is precisely the role of the courts, particularly of the courts of appeal, to intervene and to bring about uniformity in the enforcement of the law all across the country.

● (1440)

I shall not at this time enter into examples or hypotheses since you can all find such examples and hypotheses as readily as I can. In this particular case what I regret is that the decision of the government, or of the Minister of Justice, was made only because of pressure brought to bear by a certain element of public opinion—and a relatively small element at that, I suggest. They did not go into or consider the basic problems posed by the *Morgentaler* case.

Let me at this stage point out that whether this particular case turns out one way or the other does not really concern me, but I do think that it should have given rise to a thorough study of our jury system. I do not have the slightest objection to giving the utmost protection to the accused, but at the same time I do not want to put the law into the hands of the jury. The jury system is based on giving to the jury jurisdiction only in matters of fact, and where a court of appeal finds that the jury has gone beyond its jurisdiction, then it should be able to intervene.

I should like this problem to be thoroughly discussed in committee, because in my view this amendment goes only in one direction. And while it might solve the problem in one particular case, it would still leave the main problem, the most important problem, unresolved. If that problem is not resolved, then I would rather see the law remain as it is because if we give way on this, then we will never be able to come back and correct the main problem which I have outlined to you, and which should be given serious attention, particularly in the Senate. This is particularly our role, honourable senators.

The other day I was dining with Madam Speaker when she received a Mexican delegation. She distributed to us a little paper setting out the meaning of the mural inscriptions in the Speaker's chamber. They are all in Latin, but I should like to quote one which is translated into English and French. While you might have difficulty understanding my English translation, you certainly would not understand the inscription if I were to read it to you in Latin.

Senator Lamontagne: I am sure we would.

Senator Flynn: Well, let Senator Lamontagne try this:

Plus apud nos vera ratio valeat quam vulgi opinio.

Anyone who wants to translate it is welcome. At any rate I shall give you the official translation. It is a quotation from Cicero, and it says: "Let reason prevail with me more than popular opinion."

Hon. Senators: Hear, hear.

Senator Rowe: Honourable senators, before Senator Flynn terminates his discussion I wonder if I might be permitted to ask two questions. In doing so may I say that I have listened with intense interest to his comments on this extremely important matter.

He stated, and I think most of us know, that the Quebec Court of Appeal had two choices open to it—either to reverse the verdict of the jury and declare the accused guilty, or to order a new trial.

Now, this is not a rhetorical question. I do not know the answer and I would like to know the answer. Did the Quebec Court of Appeal state whether or not it considered the possibility of a new trial, and is there any evidence as to why the court of appeal did not order a new trial rather than take the highly controversial decision—as it now happens to be—to reverse the verdict?

I should know the answer to my second question, and I apologize for not knowing it. If this amendment is adopted by Parliament and becomes law, will any court in Canada in future have the right to order a new trial after a jury has given its verdict?

Senator Flynn: Honourable senators, the answer to the second question is that the amendment would only permit the ordering of a new trial. There would be no power in the courts of appeal to substitute a verdict of guilty in the case of an acquittal. That would be the effect of the law.

Insofar as the first question is concerned, as I think I tried to explain, it was because of the provision that says, "If, in the opinion of the court, the accused should have been found guilty but for the error in law . . ." and the majority of the Supreme Court, in the part I read from the summary of the decision, said that this power, of course, should be used with great circumspection, but that it was particularly appropriate in this case since the accused admitted the facts but denied his guilt only on the basis of defences in law held to be unavailable by the appeal courts. In other words, what the existing law says is that if the defence is a defence in law, and that defence is not available, then the appeal court should say, "Well, another trial before a jury would bring in the same facts, and therefore the verdict should be one of guilty," and should substitute that verdict. In most cases where there was any appreciation of the facts by the jury, and where this was properly done, the court never used this section. It just said, "You will have a new trial, since there was an error in law made by the judge instructing the jury."

Senator Burchill: Honourable senators, as a layman I venture to ask Senator Flynn a question. I must say at the outset that I think he made a very able presentation.

Hon. Senators: Hear, hear.

Senator Burchill: He referred to the law in Canada and he referred to the law in the United States, but what about the law in Britain? Are there any references to the practice in the United Kingdom?

Senator Flynn: I would hesitate to give an opinion on that, but from what I have read I think that in Britain there is no right in the court of appeal to substitute a verdict of guilty for a verdict of acquittal. I am not sure about that. However, in Great Britain the problem may not be exactly the same as it is here.

Senator Buckwold: Would the distinguished senator answer another question from a layman? Was the minority report of the Supreme Court published? If so, and since it was a very close decision, five to four, perhaps he could enlighten his fellow senators as to the reasons for the minority report. I think this would be interesting since he has put a fair amount of emphasis on the majority report.

Senator Flynn: I have no objection to that, but if I did not quote from the judgment of the minority, it was because it is not relevant to the question here; it is relevant to the case proper. The summary of the opinion of Chief Justice Laskin, Mr. Justice Judson and Mr. Justice Spence reads as follows:

● (1450)

> Where the jury has acquitted, it must be an unusual case indeed in which an appellate Court, which has not seen the witnesses, or observed their demeanour, should essay to pass on the sufficiency of the evidence, and substitute its opinion for the jury's and enter a conviction, rather than ordering a new trial. In any event, since the two defences were properly left to the jury, the appeal should be allowed and the accused's acquittal restored.

The defence was rested on section 45 of the Criminal Code, which was judged by the majority as not applicable in the case of abortion. As it may be useful for the record, I will read that section:

> Every one is protected from criminal responsibility for performing a surgical operation upon any person for the benefit of that person if
>
> (a) the operation is performed with reasonable care and skill, and
>
> (b) it is reasonable to perform the operation, having regard to the state of health of the person at the time the operation is performed and to all the circumstances of the case.

Honourable senators know that abortion may not be performed under the law without a committee of a hospital deciding it to be necessary for the health of the person concerned. The majority of the Supreme Court said that were section 45 to be applied with regard to provisions concerning abortion, the intent and application of the rules which provide that no one shall perform an operation of that kind without a committee having first examined the case would be completely destroyed. In other words, it should not be left to a single doctor or surgeon to decide that he should operate. The question of necessity, of course, can arise very often, but I suggest that such questions should not always arise in one particular doctor's practice.

Senator Croll: Senator Flynn has stated that the matter raised by him today was not raised in the House of Commons, and in that I believe him to be quite correct. However, if I recall the early stages of the debate correctly, the reason for its not being raised was because in this particular instance the judges had set themselves up to be both judges of law and judges of fact, and it was for that reason that the amendment was introduced.

Senator Flynn: I would not accept that statement, because there was no debate in the House of Commons. In fact, in that house they followed the trend of opinion expressed in the press, and that was all. No one dared in one way or another, as is the picture we have very frequently of the House of Commons, to express an opinion contrary to, let us say, the weight of opinion expressed in the press. It is much easier, as I said before, to support something which appears to be liberal with a small "l"—

Senator Croll: Oh, a big "L" for Liberal!

Senator Flynn: —than to sustain a system which has its merits and its defects, but which should be corrected in another manner than that which is now suggested.

Senator Laird: Was this bill considered in committee of the other place?

Senator Flynn: Yes, it was considered in committee, but no recommendations were made. Of course, the opinion of the former Prime Minister has a lot of weight, as is obvious from the fact that it was the main argument used by the sponsor of the bill.

Senator Langlois: You are the only one not to be impressed by it.

On motion of Senator Asselin, debate adjourned.

FOREIGN AFFAIRS

CANADIAN RELATIONS WITH THE UNITED STATES— CONSIDERATION OF VOLUME 1 OF REPORT OF COMMITTEE

The Senate proceeded to consideration of the report of the Standing Senate Committee on Foreign Affairs, entitled "Canada-United States Relations—Volume 1—The Institutional Framework for the Relationship," which was tabled on Tuesday, February 3.

Hon. George van Roggen: Honourable senators, I should like, first, to thank the government leader in the Senate, Senator Perrault, for tabling the report of the Standing Senate Committee on Foreign Affairs on Tuesday of last week in my absence.

I would also like to remind honourable senators that the reason for the publication of the report prior to the Senate's reconvening after the Christmas recess was that we wished to be in a position to take it with us to the meeting of the Canada-United States Inter-Parliamentary Group in the United States, which commenced on January 29. Honourable senators will recall that permission for this prior publication was granted by way of a motion I moved on December 18 last.

The order of reference under which this study is taking place was first made by the Senate on a motion of Senator Aird, the then chairman of the committee, on March 26, 1974. The motion was that the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States. Upon my motion of November 5, 1974, this authority was renewed. I might just take one moment to quote from Senator Aird's remarks at the time he sought that order in 1974. According to page 175 of *Debates of the Senate* of the 1974 session, he said:

> Honourable senators, in the most simple language, your committee is asking for authorization to examine and report upon Canadian relations with the United States. I happen to believe that very often simple words cover a most complicated subject, and this was never more true than in this particular instance.
>
> For me, two questions immediately arise: First, is the Standing Senate Committee on Foreign Affairs a proper forum, and capable of performing such a formidable and challenging task? Secondly, if it is capable, and if it is an appropriate forum, how does your committee propose to go about programming such an encyclopedic undertaking?
>
> If the answer to my first question is in the affirmative, and I believe it is, then the answer to the second question has to be: Constructively and very carefully.

During the meetings of the committee at that time—I then being a member of the committee—we did give very careful thought as to how we would go about a study of such an immense subject. By attempting such a study in one bite, we would be in danger of descending into a morass of evidence and facts from which it would be almost impossible to emerge with a coherent report having any form or shape. The committee therefore agreed that it would proceed in stages, and it seemed logical to us that the first stage would concern itself with the mechanisms by which the relationship between these two countries is conducted.

● (1500)

Honourable senators will see that the cover of Volume 1 of the study, which has now been tabled, refers to "The Institutional Framework for the Relationship." The report, therefore, confines itself to these mechanisms, with the possible exception of some opening observations of a general nature in Part I, where we reiterate some facts that are known to most Canadians. We thought it well to reiterate them to refresh our memory on the range and scope of the relationship, because there is no question that the interface between these two nations is greater in every respect than the interface between any other two nations on the face of the globe.

The report, in its opening pages, says:

> For Canada, this means a market for over two-thirds of its exports, representing over one-third of all goods produced in Canada. For the United States, Canada constitutes one-fifth of its export market but this involves only two percent of all American-produced goods. The United States supplies two-thirds of all goods imported into Canada and Canada supplies one-quarter of all imports into the United States . . .
>
> The scale of the trading relationship can best be appreciated by comparing United States trade with other countries. Japan, which is the United States second largest partner, does about one half the trade with the United States that Canada does. American trade with all nine countries of the European Community, a group encompassing a population 10 times that of Canada, amounted in 1974 to slightly less than its trade with Canada alone.

We concluded that part of the review of the extent of the relationship with these words:

> It is not a relationship of equals. The United States has 10 times the population and over 10 times the gross

> national product of Canada. In military terms it is a superpower, in economic terms a giant. Because of this disparity, Canada is more dependent, more sensitive and more vulnerable to the state of the relationship than is the United States. For Canada, it is by far the most important of all its external relationships.

The report goes on to deal with the changing concept of the relationship.

Honourable senators will recall that in recent months and years there has been a good deal of discussion about the special relationship between Canada and the United States, and a good deal of discussion on what is meant by "special relationship." The committee's report, in dealing with this matter, and after examining it in some detail over several pages, concludes with this paragraph:

> How, the Committee asks, in the light of the geographic ties, the affinities and interchange of the two peoples, the ease of communications, the similar institutions, and the extent of trade, cultural and other links can the relationship be considered anything but a "unique" one? Canada no longer seeks a "special treatment", but it cannot deny a "special relationship" does exist with its southern neighbour.

We then deal with current problems. I wish to emphasize that the list of problem areas, if I might use that term, is not meant to be exhaustive. It is by way of example only, and is not meant to be a precisely balanced list. The report lists two or three pages of typical irritants that exist at the moment. Those irritants are changing from month to month, as some are solved, others go away by themselves, and others we learn to live with.

We thought we should set forth some examples to give an indication of how extensive are the irritants; understandably they apply between two nations which carry on an extensive relationship, and the irritants or problems should be kept in the perspective of the immensity of that overall relationship.

I might comment here that some people like to say that our relationship with the United States is worsening. I prefer to say that it is becoming much more complex. It was comparatively automatic for many years, but during the last 10 or 15 years it has become infinitely more complex with the emergence in the world of problems relating to energy, shortage of resources, exhaustion of fish stocks, pollution, and so on.

All of these things have given rise to problems between our two countries, and the report therefore deals with the mechanisms for dealing with these problems, and makes a number of recommendations as to how these mechanisms can be improved—as they need to be improved—to deal with a heavier workload in this area than we have had to deal with in the past.

At the end of the report, reference is made to the fact that the committee will now proceed with the second phase of its study—which will be the subject of the second volume, of its report—in these words:

> The next phase of the study will deal with Canadian Trade Relations with the United States.

I might take a moment to deal with that part of the study. As I have said, to the press and others, this study is

[Senator van Roggen.]

of the total picture of the exchange of goods and services between our two countries.

I stress that because there is a tendency, when one speaks of trade with the United States, to think immediately of trade in manufactured goods, tariffs, free trade, and things of that sort. There is no question but that the report of the Economic Council of Canada, which was made public last July, will play a very significant part in our study of trade between the two countries. It will not be the whole subject. In fact, it will represent only a comparatively small, although very important, part of it.

I might say to Senator Desruisseaux, who spoke last night on this subject, that Dr. Raynauld, the Chairman of the Economic Council of Canada, has already appeared before the committee, and undoubtedly will appear again.

The study, however, will go well beyond that. We speak in terms of trade with the United States, so far as exports are concerned, as being 50 per cent in manufactured goods. The auto pact accounts for approximately two-thirds of that, leaving approximately only one-sixth of the total in manufactured goods outside the auto industry. Therefore, a very important part of our study will have to concern itself with trade in unprocessed goods, both renewable and non-renewable resources; semi-processed goods, manufactured goods, tourism, invisibles, capital flows, and so on. All those items have been looked at individually on several occasions in different studies, but ours may be the first study to endeavour to put all of those exchanges of goods and services in one perspective.

It will be a large task, but we shall do our best, following our first volume, to deal with this subject in our second volume.

● (1510)

I shall not take the time of honourable senators to review Volume 1 of the report in detail. I trust that many of them will take the time to read it. It is not overly long, but we feel it is reasonably meaty and will make interesting reading. It contains a number of important recommendations, which have not caught the eye of the press, relative to such things as the operation of the International Joint Commission, the establishment of provincial departments of intergovernmental affairs, the resolution of our salt water boundaries with the United States, and so forth.

Two recommendations which seem to have attracted the attention of the press in particular—and which, I agree, are certainly among the most important—include the point we make on the importance of the government and the Department of External Affairs to recognize more fully the manner in which the pendulum of power in Washington has swung from the Executive to the Congress.

If I may, I will read the first paragraph on page 80, under the heading, "Legislative Channels":

> For a variety of reasons, the Canadian government has been reticent in developing an active programme of liaison with influential Congressional figures. The Committee learned that other major countries' governments feel much less constrained than Canada by the fact that their ambassadors are accredited to the Executive Branch. Canada may be overestimating the importance of this factor while underestimating the significance of the U.S. constitutional division of

powers with the consequential strong role of Congress. Or it may consider that the U.S. State Department is always able and willing to interpret the Canadian position effectively to Congress, an assessment with which the committee cannot agree. Whatever the reason, American witnesses before the committee consider that the Canadian Embassy could develop a far more active programme of contacts with Congress in order to ensure that the Canadian point of view is understood.

I should emphasize at this point that we are not simply recommending a slick PR campaign on the Hill. What we are recommending is a program that would require highly skilled, professional men, knowledgeable in the affairs of various fields in Canada, who could deal with members of both the House of Representatives and the Senate, as well as committee chairmen and others, on a one-to-one basis in relation to problems that exist between our two countries. The world commitments of the United States, as well as its size, are such that unless border problems between our two countries are brought to the attention of members of the government, they simply are unaware of them.

I might say, during the meetings two weeks ago of the Canada-United States Inter-Parliamentary Group we encountered one situation where a powerful senator, a chairman of a subcommittee appropriating funds for certain developments, along with other congressmen, was taken over the Garrison Dam area of North Dakota by the senator from that state, to show them why the appropriation should be continued for another year, which request was passed by the subcommittee in question. During our meetings on Canada-U.S. relations, that same senator was astonished to find that this was an irritant, or even known about in Canada. He did not know that the very project he was flying over was the source of a problem between our two countries. Situations of this type have to be corrected, and we certainly have to take it upon ourselves to correct them. We cannot expect U.S. officials to do so.

Still dealing with the same subject, the report goes on to say:

> Recently Congress attained significant new powers particularly in the economic field. It is asserting a vigorously independent attitude in foreign and trade policy matters. At the same time, American witnesses told the Committee that there is a great lack of awareness in Congress of the extent and depth of Canadian-American economic ties. Almost inadvertently, congressional unawareness or misunderstanding of the Canadian position could cause severe economic or trade dislocations in Canada.
>
> The Committee has concluded that Canada's contracts with Congress have been neglected for too long. The Committee urges the government to provide the embassy as soon as possible with the instructions and the means for a greatly expanded congressional relations programme.

I might say, I received only yesterday a letter from a senior official of the Department of External Affairs thanking me for a copy of the report, and saying:

> We have the plans, most of the people required, and a great desire to succeed. The extent to which we will do so depends now on the amount of program funds we are permitted to apply to operations in the United States.

The second recommendation the press commented on at length, which I will deal with in a moment, is in relation to the general information program which Canada should mount in the United States. As some honourable senators may have already observed from reading the report, we used some statistical comparisons. I will not read them all, but on the figures we were able to obtain from European countries—and, I might say, they are comparable in relation to Japan and Russia—European countries spend, related to their gross trade, on a worldwide basis, $1 for every $230 worth of trade, whereas Canada spends $1 for every $4,800 worth of trade. As far as the United States is concerned, European countries spend $1 for every $200 worth of trade—almost the same as worldwide—whereas Canada spends $1 for every $18,000 worth of trade. This is a relationship that both sides, I think, have taken for granted, and now that it has become more complex it requires more attention.

We concluded the recommendation in that particular section with the following words:

> The Committee realizes fully that it is recommending very substantial increased government expenditures at a time of fiscal restraint, but it is here dealing in priorities not total expenditures. Surely no other country has as much at stake as Canada in protecting its relationship with the United States. As we have already pointed out Canada-United States trade both ways amounts to over $42,000,000,000.00 annually. Even a small portion of this must not be placed in jeopardy for want of proper attention particularly now when Canada faces a balance of payments deficit approaching $5,000,000,000.00 per year on a world basis. To repeat an old military maxim we must reinforce strength not weakness and reallocate federal government resources as productively as possible in this area.
>
> The Committee therefore urges the Government to give the highest possible priority to its information, cultural and academic relations programmes in the United States. In order to implement this proposal the Committee recommends that a departmental task force be set up to assess the financial requirements and to decide how best to strengthen the programmes.

In addition to those two recommendations which have caught the public eye, there is a third one which I should like, as a personal note, to touch on, and that is the recommendation relative to the Canada-United States Inter-Parliamentary Group meetings:

> The Committee considers that no other inter-parliamentary link is nearly as important to Canada as the Canada-United States Inter-Parliamentary Group. The Committee strongly urges the selection of delegates to the Canada-United States Inter-Parliamentary Group meetings who are carefully chosen as to individual areas of expertise and adequately briefed in order to put Canada's case in the most effective possible manner to American legislators.

I would be remiss if I did not take a moment at this point to congratulate Senator Macnaughton and Mr. Martin

O'Connell, the Canadian co-chairmen, who, along with their American co-chairmen, have taken strenuous and effective steps over the last two or three years to greatly strengthen and improve the nature of the meetings of the Inter-Parliamentary Group, so that they are now, without question, most productive.

● (1520)

I can only hope that the government will give effect to some, if not all, of the recommendations in the report. There are sceptics who would say that it will only gather dust, as has happened, regretfully, too often to other reports. However, I am encouraged that this will not be the case with this report, particularly in view of the success of the report of this same committee, under the chairmanship of Senator John Aird, with respect to its study of Canadian Relations with the European Community. You will recall that all of the four major recommendations made in that report were eventually adopted by the government. As a matter of fact, the last one is coming to fruition on Thursday of next week, when the President of the Community is coming here to open the office of the Community, in Ottawa, and also to make a formal announcement about the commencement of negotiations for a contractual link between Canada and the Community. Hopefully, our present report will gain the same attention from the government as that one.

In conclusion, honourable senators, I wish to pay particular tribute to several people: first, to former Senator John Aird, who, as chairman of the committee, launched it on this inquiry. It took courage to do so, and we on the committee all hope we will do him justice.

Secondly, I wish to pay tribute to my deputy chairman, Senator Allister Grosart, who unfortunately cannot be here today as he is on official business in Athens. I would like simply to offer my thanks to him for his invaluable assistance, not only to the committee but to me personally, and for all his counsel and wisdom.

To all members of the committee, and in particular the members of the steering committee, I owe a debt of gratitude, the other members of the steering committee being Senators Cameron, Lafond and McElman. I would particularly like to thank Senator Lafond, not only for his attention and activity throughout the study as a member of the committee, but for his assistance in ensuring that the excellent translation made by the Translation Bureau properly reflected the nuances of the committee's report. This he did single-handedly, at the cost of a great amount of time and dedication.

I would not want to end my remarks without also thanking the witnesses who gave of their time and expertise in appearing before the committee, several of them coming from distant parts of the continent without recompense for their time.

Last but not least, I thank all members of the staff and the Parliamentary Centre for Foreign Affairs and Foreign Trade under the direction of Mr. Peter Dobell, who provided our principal staff support; and in particular, Mrs. Carol Seaborn of the Parliamentary Centre, without whose dedication throughout the whole period of preparation it would not have been possible to produce the report.

[Senator van Roggen.]

The Hon. the Speaker: As no other honourable senator wishes to participate in this debate, this order is considered as having been debated.

FINAL ACT OF HELSINKI CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Forsey calling the attention of the Senate to the Final Act of the Helsinki Conference on Security and Co-operation in Europe.—(*Honourable Senator Yuzyk*).

Senator Yuzyk: Honourable senators, there are two committee meetings this afternoon, one starting at 3.30 and the other immediately after the Senate rises. Since my speech will take approximately half an hour, I think it would be more appropriate at this time if this order were to stand.

Order stands.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—DEBATE ADJOURNED

Hon. Hervé J. Michaud rose pursuant to notice:

That he will call the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.

[*Translation*]

He said: Honourable senators, the Canadian government is constantly looking for new measures, new formulas to stimulate Canada's less privileged areas. Its efforts will have to be increased to correct certain economic problems still prevalent in New Brunswick.

Although the serious difficulties affecting the province's northeast area have long been known, they were dramatized in October 1975 when the Roman Catholic clergy in the province's northeast openly declared in support of the area's citizens. Man's life was at stake, they said. Such was the message included in a letter to the Premier of New Brunswick, the Hon. Richard Hatfield. Copies of that letter were sent to Canada's Prime Minister, the Right Honourable Mr. Trudeau, to all members of Parliament, members of the provincial legislature and senators from the area, farm groups, development agencies, and media in the province and elsewhere. The letter stressed the deep paradox of the area's unlimited physical and human resources on the one hand, and the extremely high unemployment rate and low standard of living on the other. How was it possible to be so rich and so poor at one and the same time, the letter asked.

In support of the clergy of northeastern New Brunswick, Archbishop Donat Chiasson of Moncton stated

> . . . he had had strong hopes at the start of the sixties that the area would be chosen as a key development area.

Archbishop Chiasson added:

> When and how will these special development plans, that have been promised since the early sixties, reach the average citizen?

The clergy of northeastern New Brunswick also met with massive support from the local people in its efforts, and also with the special support of the Anglican Synod of the Fredericton diocese. The clergy's letter also seriously warned that:

> We hope our voice will be heard before it is too late—

and added, concerning the high unemployment rate in the area:

> Relevant statistics are such as to scare anyone who takes the time to think.

● (1530)

Six recommendations were made by the clergy of northeastern New Brunswick to deal with that situation. Each one of these recommendations could give rise to a long speech, but I wish to underline the following recommendation:

> Within a concerted development effort, to aim at a more rational use of the many first quality farmlands which are practically left uncultivated.

The eastern New Brunswick agricultural situation has been getting special attention from the Senate Committee on Agriculture since its creation. In fact, immediately after its creation in March 1973 the committee undertook its first important inquiry under the following terms of reference:

> To study the problem of marginal, sub marginal and abandoned farmland in eastern Canada, particularly the situation in Kent County, New Brunswick, and to make recommendations to insure and maintain viable rural communities and a prosperous farm population.

To get more familiar with local conditions, the attitudes of rural people and farmers as well as with the outlook, objectives and programs of the provincial government and other organizations and institutions, the committee held two days of hearings in Moncton on June 13 and 14, 1973. During those public hearings—there were six of them—the committee heard evidence from provincial and federal government representatives, academic and research institutions, local associations and individuals.

Members of the committee found these official and non-official exchanges with the witnesses very stimulating.

During these exchanges, we have been able to see the many possibilities that exist concerning the farming future of the region. We have also been aware of the feelings of deep frustration and alienation of the farmers of eastern New Brunswick over their neglect by either the federal or the provincial government. Even though certain statements were made with often total and sometimes brutal honesty, we must admit that all these statements were sincere. In summary, we have no hesitation in saying that all the statements collected during the hearings held in Moncton in June 1973 constitute the most comprehensive and impressive record possible on the true state of farming in Kent county, and therefore in the whole northeastern area of New Brunswick. It would be useless to look elsewhere to find the true feelings of the local people or to discover the elements of the solutions that we must apply to solve the many farming problems of the area.

In Kent county, as well as in the northeastern part of New Brunswick, most farms are small and are therefore included in the category of farming businesses known as family farms. Therefore, during the hearings in Moncton, there was a lot of talk about the Small Farms Development Program launched through legislation in 1971.

Because of the many developments since these hearings, it is important today to examine very closely some aspects of the farming problem which now affects agricultural areas, particularly in New Brunswick. When this program was announced in December 1971, it rekindled the hopes of all the people who are concerned with the problems of small or marginal farming businesses in Canada. On December 6, 1971, the Hon. H. A. Olson, Minister of Agriculture, said the following on this subject:

> Unless we develop new concrete programs, many Canadian operators and, in fact, the whole rural community will be threatened . . . According to economic studies and practical experience, the family farm is the best kind of farming business, and it is with this in mind that we have developed a vast program designed to help the small farms of Canada to become profitable family businesses.

The Prime Minister, the Right Honourable Pierre E. Trudeau, emphasized the importance given by the federal government to this initiative in a speech made before the Coopérative fédérée de Québec on Feburary 2, 1972, when he said:

> I would add that the program now under consideration is our last chance. It must succeed, otherwise everything (the rural society) will collapse. We put all our hopes in this program and we will never give it too much attention.

And when Mr. Eugene Whelan appeared before our Senate committee he said something along the same line:

> I still believe that the Small Farms Development Program has a lot to offer, particularly in areas such as Kent County and similar regions in Canada.

Certainly, nobody thought at the time that the program was a magic wand which the federal and provincial governments would use to turn poverty into prosperity. But, on the other hand, nobody anticipated that it would prove such a failure in the very areas where expectations were the highest.

Only a few transactions have been completed up to now in eastern New Brunswick under this legislation. If this program has not worked out well in that area, it means that the roots of the agricultural problem go much deeper, that the problem is much more basic than we thought originally. Because it was neglected for too long, our agriculture has lost whatever credibility it might have among those who should take over.

● (1540)

What is most needed in order to bring about the recovery of agriculture in that area is a more positive leadership, both at the level of the farmers themselves and of the agriculture departments at the two higher levels of government, as well as a better understanding on both sides of the complexity of the problem. As regards farmers, until fairly recently the French-speaking agricultural community of New Brunswick had every reason to consider them-

selves fortunate in the group of agronomists who worked among them. With the support of a clergy steeped in a similar ideal, these 20 odd agronomists had succeeded over a period of some 40 years to keep agriculture alive in our rural communities, in spite of every obstacle. It is only proper, that we should, in this Chamber, give them all full credit for their achievement. Many of these bold pioneers are no longer alive. The others have all reached retirement age. Nowadays, they have been replaced by at most 7 or 8 French-speaking agronomists, who find it difficult, in spite their well-known dedication, to fulfill an ever increasing task.

Why are so few young people willing to carry on the farming business in French New Brunswick? The answer to that question is again found in the evidence given before the Senate Committee on Agriculture. A witness said in that respect:

> It must be realized that when young people consider agronomy as a profession and go to university, like others they have certain aspirations about joining the public service.
>
> In New Brunswick French-speaking or bilingual people have yet to be given responsible positions within the Department of Agriculture—I mean something other than routine jobs. A few bilingual secretaries here and there, and that is all.
>
> In accordance with the aspirations of everyone I would suggest again that we should do more than promote the agronomic profession in New Brunswick.
>
> We should find attractive options so young people can look for management and responsible positions within the government."

Following that evidence a member of the audience wanted to point out to committee members that it is the structure of the system in New Brunswick that makes it possible for such situations to exist. To the advantage of everyone, could not consideration be given to making those structures more flexible little by little, if I may put it that way. Greater representation of the French-speaking element would be required within the Department of Agriculture to guarantee greater participation of French-speaking agricultural officials in the province in the operation of the department as well as the elaboration of agricultural policies which chiefly affect French-speaking farmers. The same must be said for officials in Agriculture Canada who are under the same roof as their provincial counterparts in Fredericton. In brief, out of about 20 division heads in the federal department and out of the same number in the provincial department, how many can speak French? One or two at the most, at each level. That is an unjustificable situation in the province of New Brunswick.

Experience shows that it is in such organizations where they can more easily assume an individuality, find themselves as a cultural and social entity, that Acadians enjoy the most noteworthy success. For example, let us see what the Toronto *Globe and Mail* had to say in this regard in its issue of April 18, 1974. The article was entitled:

[*English*]

"N.B. Credit Unions Show Different Approach of French and English." It reads:

> As in the case with many aspects of life in New Brunswick, where approximately 38 per cent of the population is Acadian, the credit union movement provides an example of differences in sociological and philosophical approaches between people of English and French background.
>
> The credit union movement in the province is divided into two sections, both under the supervision of the Department of Agriculture and Rural Development, with the Acadian section by far the more active.
>
> The New Brunswick Credit Union Act was passed in 1936. In 1947, passage of the Credit Unions Federations Act permitted the establishment of federations or leagues of credit unions.
>
> The single body, that had embraced both credit unions and caisses populaires, established a committee that subsequently recommended that the interests of the whole movement would best be served by division into English and French federations.
>
> La Fédération des Caisses Populaires is far more active—and the reason seems to be rooted in the socio-economic status of Acadians over the years.
>
> Mr. Léger—its Director—

That is, Mr. Martin Leger.

> —says the higher level of activity is because "French-speaking New Brunswickers are more closely knitted together through their church and parochial organizations."
>
> "Practically every caisse populaire in the Francophone region of New Brunswick was organized with the co-operation of the parish priest."
>
> Today, says Mr. Léger, the organizations are strong enough "to do their own homework", consequently the clergy no longer feels the necessity of providing such close co-operation.
>
> Mr. Léger says the fact that Acadians lived in areas where social and economic conditions were quite bad gave impetus to the co-operative movement as a way to better their lives.

● (1550)

[*Translation*]

No doubt a prosperous agricultural industry in eastern New Brunswick would be profitable to both English-speaking and French-speaking farmers in the area, even if the latter are more numerous. It must be said, however, that the example set by the cooperative movement in the New Brunswick credit unions is an example to follow in the French-speaking farming communities in the province. If we really want to restart farming in the so-called French regions of New Brunswick, it is important to provide the farmers in those regions with the means to provide themselves with organizations whose operations will fit their customs and turns of mind.

In this regard, I would advocate the development of a training centre at the Memramcook Institute for the benefit of Eastern New Brunswick farmers. All required facilities already exist for such an important centre: the institute itself with its many facilities, a school of agriculture that is still vacant, and above all a model dairy farm with all the needed fields. Located only 15 miles from Moncton,

this training centre would be readily accessible to the university students at the University of Moncton who are interested in agriculture and to those who intend to take up agronomy.

The Senate Committee on Agriculture however, understood the need for French-speaking farmers in New Brunswick to have access to the services of agronomists of their own culture in order to establish a freer and more complete relation with them.

For that reason, after the Moncton hearings the committee convened a special meeting here in Ottawa on December 4, 1973, attended by representatives of the University of Moncton, Laval University and the College of Agriculture of Nova Scotia, for the purpose of studying the question of agricultural science teaching in the Maritimes, and particularly in the French-speaking regions of New Brunswick.

Let us note that the results of that meeting were most satisfactory since an agreement was made later on between the representatives of Laval University, namely, Dean Victorin Lavoie of the Faculté des sciences de l'agriculture et de l'alimentation, and Registrar Yves Chartier, on the one hand; and, on the other hand, the representative of the University of Moncton, Dean Roland Cloutier of the Department of Sciences. Under this agreement, about twenty students of the University of Moncton, recipients of bursaries from the Secretary of State, were able to register for agronomy courses at Laval as early as September 1974. Their agronomist studies once completed, upon their return to the farming areas of New Brunswick, they can then render indispensable services by becoming the life and soul of their milieus. Each year other students will join the group already in the field, thus ensuring the continued training of Francophone agronomists to carry on in New Brunswick.

At that meeting of December 4, 1974, the committee also had the privilege of very pertinent information from Dr. H. F. McRae, head of the Nova Scotia College of Agriculture. Allow me to quote you what Dr. McRae said:

> It might be of interest to note that of all the students who took our technical courses in 1973, 33 per cent went to work on farms as managers or to perform similar tasks. Since the inception of the program, that is surely the highest percentage of people who went back to live and work on the farm.
>
> This year, 1973, at the Nova Scotia College of Agriculture, there have never been more registrations. We have the highest number of students any institution has ever welcomed, in addition to which of those 400 or so students, 104 are women.

On the same topic, this is what Mr. Louis-Philippe Albert, of the Economic Policy Division of the premier's office in Fredericton, had to say:

> It would also be profitable for New Brunswick to have a team of professors of New Brunswick, of professors of agronomy, of thinkers who are above politics and above the present circumstances who could analyze problems which arise all the way from the farm to the marketplace and make studies such as universities can undertake and such as those being carried out in Truro.
>
> Having discussed with some of my colleagues of Nova Scotia—-

Mr. Albert went on to say.

> I understood that they could do nothing without this institution, without this group of professors of agronomy in Truro. We have none in New Brunswick. All this is a little outside the subject matter but it is nonetheless part of the problem.

Moreover, the best contribution the Department of Agriculture of New Brunswick can make to the establishment of this agricultural leadership which is so necessary in French-speaking agricultural circles of New Brunswick is to promote agricultural training at both the scientific and the technological level. The federal Department of Agriculture, through Agriculture Canada, in Fredericton, could also play a more decisive part in the new efforts which are being made to restore the agricultural industry in these areas.

For reasons that farmers do not fully understand, it seems that this institution is the one which often is the most hesitant to face the vital problems involved. "It is not within the functions of this institution to deal too much with the release of agricultural figures at the local level, but rather to deal with research", the officials of this institution like to repeat every time they are asked to take a position in this respect. This negative attitude from the officials of this institution is deeply disappointing. Precisely because of its particular resources available—high expertise and most modern facilities—Agriculture Canada in Fredericton, better than anyone else, can play there a prominent part. What is more urgent, incidentally, in the interest of agriculture in Canada, and especially in the province of New Brunswick, than looking for a solution to this alarming situation prevailing in New Brunswick where 40 per cent of the arable land is in serious jeopardy of losing all its potential for agricultural production?

● (1600)

Unless ways are found to check land abandonment in the north and in the east of the province especially, agriculture will keep declining in those areas.

Those who continue to believe that farming can still become viable in economic terms in that area are very much concerned with this situation. As recently as January 22, 1976, the *Evangeline*, the Acadian daily newspaper, said, following the announcement of a community improvement project in the northeastern part of New Brunswick:

> The original aspect of this document is that it emphasizes the development of the area while respecting its traditional vocation, namely rural life. The report stresses, and rightly so, that the northeast is particularly rich because of its natural resources, such as fishing, forestry, agriculture and mining, but those resources are often poorly exploited. For years these important sectors of the economy were overlooked while more emphasis was being placed on industry. That is no longer good enough.

The Acadian people are quite attached to their homestead and hang on to it because it is the only place where they really feel at home.

It is this feeling of attachment and belonging to the Motherland that the Acadian authoress, Antonine Maillet, like many others before her, sought to describe when she stated:

> Today, the Acadian rebel against this notion of exodus towards the city, because they feel they are losing there their most vital assets. Their own personal lives, their own small culture, are in danger of getting lost in the city. They would have nothing left. And they are incredibly aware of that. The proof is that they struggle even at the risk to be unemployed all their lives.

The Acadians from New Brunswick are only asking for the opportunity to live at home, as full-fledged citizens, like all the other citizens of the country. The political authorities will have to consider carefully those serious problems: the stake is worth it. Up to now, we were too often inclined to ignore the fair claims of the Acadians who, according to the same authoress, "are the most deprived people on earth."

The Senate Committee on Agriculture, for its part and pursuant to its terms of reference, will continue to examine farming conditions in eastern Canada. The committee understood its mandate better following the hearings held in Moncton in the month of June 1973. Let us listen to what a farmer had to say at the conclusion of the brief he submitted to the senators who were present at those hearings:

> What are you going to do? You have influence, you have political contacts, you are part of the decision-making process. But are you prepared to use all those resources to help us change the situation? For you, are those sittings not more or less an exercise to give the impression that you are concerned about our problems without committing yourself to anything but writing a report? We hope not. We call on your sense of justice and ask for your support.

Honourable senators, the farmers of eastern New Brunswick have asked for our support—they can count on that support.

[*English*]

On motion of Senator Petten, debate adjourned.

BUSINESS OF THE SENATE

Senator Langlois: Before moving the adjournment of the Senate I would remind honourable senators that the Special Senate Committee on Science Policy will meet in room 356-S as soon as the Senate rises. I should also like to point out that the Special Joint Committee on Employer-Employee Relations in the Public Service has been sitting since 3.30 p.m. in room 371 of the West Block.

The Senate adjourned until tommorrow at 2 p.m.

THE SENATE

Thursday, February 12, 1976

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

Prayers.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—LEAK OF DRAFT COPY OF SECTIONS OF REPORT—QUESTION OF PRIVILEGE

Senator Buckwold: Honourable senators, I rise on a question of privilege. I have the honour of being the co-chairman of the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service, a committee which has been working for the last 14 months. I draw to the attention of the Senate a matter which disturbs me and the members of the committee very much, the leak of a draft copy of sections of our report, which has not been finalized. The information that was leaked was reported extensively on the CBC news this morning. I am also aware that some information was passed on to the press earlier this year, as published in the Ottawa *Citizen* on January 30.

Honourable senators, this practice is very disruptive to the work of a committee which has not finalized its report, and it certainly disturbs those of us who are trying to honour the confidentiality of such a report. There seems to be a growing tendency in government for important reports and documents of this type to be leaked to the press, and so I felt that this matter should be drawn to the attention of the Senate. I suppose we cannot blame the press. It is their job to get news as best they can, but surely there should be some means of protecting the confidentiality of a report before it is published. Although our committee's report will be finalized soon, the fact that it was publicized to the extent that it was is a matter of real concern to our committee, and it should be to the government.

Senator Flynn: Honourable senators, this is not the first time that a problem of this kind has arisen. If memory serves me correctly, on previous occasions we found that there was nothing much we could do about it. Possibly the honourable senator should give some thought to submitting this question to the Standing Senate Committee on Legal and Constitutional Affairs, or referring his question of privilege to a Committee of the Whole. Using one vehicle or the other, we might then consider whether it is feasible to adopt certain rules to prevent the recurrence of such a case.

Senator Buckwold: Honourable senators, I thank the Leader of the Opposition for his advice, and I hope that all honourable senators will think about this matter. What complicates the situation is that this is a joint report of both houses.

Senator Flynn: If the honourable senator finds a solution, it may be helpful if he advises the house.

Senator Godfrey: Honourable senators, exactly the same thing happened with respect to the Joint Committee of the Senate and the House of Commons on Immigration. The preliminary report, which had been prepared by the staff for discussion purposes only and which had never been seen by the committee itself, was leaked verbatim to the press. It appeared in the press and received much more publicity than did the actual report, which was considerably different after being considered by the committee.

What I do not understand is why, when we have certain rules here providing for confidentiality of certain committee reports until they are tabled in Parliament, can't we take action against the press? Surely the press is in contempt of Parliament and, that being so, why do we not do something about it? Why must we just bow down and accept it when the press publishes something which, as far as Parliament is concerned, is confidential and has a stamp on it to that effect? Why can we not do something about it?

● (1410)

May I ask Senator Buckwold why he feels the press is blameless in this matter?

Senator Buckwold: I am one of those who feel that it is the responsibility of the news media to get as much information as it can, and I do not find fault with the news media in relation to where it finds that information.

Senator McIlraith: By any means?

Senator Buckwold: No, not by any means, but if the information becomes available to the press, I personally cannot blame the press for publishing it. I blame those on the committee, or those with access to documents before the committee, who somehow engage in passing this information on to the press. I do not feel the press itself should be the whipping boy. That is my personal opinion.

Senator Molson: Honourable senators, like my colleagues, I find this matter of leaks to the news media very disturbing. Both in relation to Canadian affairs and the affairs of other nations, we often hear the point of view expressed that news is the business of the news media. My colleague Senator Buckwold said that he does not blame the news media for getting news, but I think we have to find out how these leaks occur. I do not see why no effort is made to discover why or how these leaks occur.

Having said that, I do not feel that because an individual is a newspaperman and not a lawyer or an accountant or an engineer or a senator, he should feel privileged in the course of pursuing his occupation to do something which is not in the general interests of the country. There is no way I could be persuaded that to leak something that is not finalized, something that is in the process of being prepared, is performing a public service. These leaks simply

enable a newsman to make a fast buck by publishing information that has not been made available in the normal course of events.

A committee report in the course of preparation is clearly not news. It is something which is still being considered. I simply do not believe that any useful service is rendered to the public of Canada, the Government of Canada, the Parliament of Canada, when someone smart tries to make a fast buck by getting ahead of his competitors in this way. If we did this sort of thing we would have charges of conflict of interest, irresponsibility, and all sort of epithets thrown at us. But, when this is done by members of the news media, no one can criticize them. They are up there beside God.

Hon. Senators: Hear, hear!

Senator Desruisseaux: Honourable senators, I could not agree more with what Senator Molson has said. However, I believe that the main offenders in these cases are those who provide these leaks to the press. They are the individuals we should be after. The press will print whatever news they can find.

Senator Hayden: Honourable senators, the Committee on Banking, Trade and Commerce, when studying the White Paper on Taxation, was concerned about this particular problem. In that instance, of course, it was a committee of the Senate and not a joint committee. In an effort to control that very thing, copies of the draft reports at the various stages were signed for by the members of the committee at the commencement of meetings and were collected at the end of the meetings. It worked very well. There were no leaks. When the report was finally approved by the committee, all copies were collected by the committee clerk and returned to the chairman. Thus we were able to keep reasonable control. Doing that with joint committees may present difficulties. However, I think it can be done, and it looks as though the committee will have to exercise itself and find ways of retaining confidentiality.

Senator Connolly (Ottawa West): Honourable senators, I think there are also times when a standard of ethics could and should apply. There are times when cabinet documents are released and appear in the press, or substantial extracts are published. Members of a cabinet, no matter which one, are sworn to secrecy; they take the oath of the Privy Council. These men feel that the onus is upon them to observe this oath. Most cabinet ministers have to provide a locked place for documents, and I think they do everything that is reasonably possible to make sure that there is secrecy.

If a document is considered to be as serious as that by members of the Privy Council, surely if such documents get into unauthorized hands the unauthorized person should have some sense of decency as to what is proper and right respecting the secrecy of the document, instead of broadcasting it generally. There seems to be a feeling abroad that if you get hold of a piece of information, regardless of the means used to get it into your hands, it can be used. I believe that this is the attitude that faces Senator Buckwold and others who are confronted with this problem.

[Senator Molson.]

DOCUMENTS TABLED

Senator Langlois tabled:

Copies of Report of the Study Group on Dissociation, dated December 24, 1975 (Mr. James A. Vantour, Chairman), published under the authority of the Solicitor General of Canada.

WESTERN GRAIN STABILIZATION BILL

REPORT OF COMMITTEE

Senator Michaud, Deputy Chairman of the Standing Senate Committee on Agriculture, to which was referred Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof, presented the following report:

The Standing Senate Committee on Agriculture to which was referred Bill C-41, intituled: "An Act respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof" has, in obedience to the order of reference of Tuesday, February 10, 1976, examined the said bill and now reports the same without amendment.

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

Senator McDonald moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

● (1420)

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, February 17, 1976, at 8 o'clock in the evening.

Before the question is put, I should like, as usual, to give a brief summary of what we can expect for the next week.

We will continue the second reading debate on Bill C-71, the Criminal Law Amendment Act, and hopefully refer the bill to committee. There is also the third reading of Bill C-41, the Western Grain Stabilization Act, which has been placed on the Orders of the Day for third reading at the next sitting of the Senate. Bill C-58, the *Time* and *Reader's Digest* bill, is still before the Commons but is expected to come to us next week.

On Tuesday or Wednesday, Senator Macnaughton will call the attention of the Senate to the recent meeting of the Canada-United States Interparliamentary Group held in Key Biscayne, Florida. I understand that a number of other senators who attended the meeting wish to speak on this item.

On Tuesday, the Standing Senate Committee on Legal and Constitutional Affairs will meet at 2.30 p.m. to continue its study of the Green Paper on Members of Parliament and Conflict of Interest.

On Wednesday, the Standing Senate Committee on Banking, Trade and Commerce will meet at 9.30 a.m. to hear witnesses with respect to Canadian textile problems currently under consideration by the committee. Also on Wednesday, the Special Senate Committee on Science Policy will meet when the Senate rises. On Thursday, the Standing Senate Committee on Internal Economy, Budgets and Administration will meet at 11 a.m.

Motion agreed to.

INFORMATION CANADA

INACCURACIES IN PUBLICATIONS—QUESTION

Senator Forsey: Honourable senators, now that Information Canada is defunct, and not one moment too soon in my judgment, I should like to ask the Acting Leader of the Government who is responsible for the remains, because I want to address to that personage a strong remonstrance against the publication of two pamphlets which came to us in the last couple of days, one on the Governors General of Canada and one on the Prime Ministers of Canada. They are chock-full of gross, elementary and, in many instances, highly serious errors both of fact and of constitutional law and practice. They should not be allowed to circulate to add to the already overflowing mass of misinformation in the public mind, if one can call it that, on this subject. They should be withdrawn at the earliest possible opportunity.

They have the most preposterous statements in them about elementary matters of constitutional law and practice, and ridiculous misstatements of fact, including one minor one about the withdrawal of the former leader of this house, the Honourable Sir Mackenzie Bowell, who is reported to have withdrawn from public life in 1907; the fact being that he withdrew from the leadership of the Opposition in this house in 1907 and was still sitting here almost up to the moment of his death. I remember seeing him here in 1916 myself.

This is just one minor instance. Another instance is the statement that the Governor General's "judicial functions were modified" by the instructions of 1878. When the Governor General possessed any judicial functions is beyond my comprehension. They certainly were not modified in any way in 1878.

There are stacks of misstatements of this kind, and careless statements and nonsense. It is a serious matter that public money should be spent to disseminate rubbish of this sort, dressed up in fancy and expensive clothes.

So I want to know who is presiding now over the remains of the defunct "Misinformation" Canada.

Senator Langlois: Honourable senators, I hope my honourable colleague will allow me to take his question as notice, in order to give me ample time to find out who could be the culprit. I promise that I will do my best to obtain that information at the earliest possible time.

FOREIGN AFFAIRS

FINAL ACT OF HELSINKI CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE—DEBATE CONTINUED

The Senate resumed from Tuesday, November 27, 1975, the debate on the inquiry of Senator Forsey calling the attention of the Senate to the Final Act of the Helsinki Conference on Security and Co-operation in Europe.

Hon. Paul Yuzyk: Honourable senators, Prime Minister Pierre Elliott Trudeau appended his signature on August 1, 1975, in Helsinki, Finland, to a document entitled. "The Conference on Security and Co-operation in Europe, Final Act." There were 34 other signatures of "high representatives of the participating states," including most of the countries of western Europe, the satellites behind the Iron Curtain, Turkey, the Union of Soviet Socialist Republics, and the United States of America.

The conference took place over three days in Finlandia Hall in Helsinki. Policemen in plain clothes with walkie-talkie sets were present everywhere. Police dogs on the grounds, helicopters in the air and harbour craft on the waters provided a foolproof security blanket. People were kept at a distance. Security was exceptionally tight for this security conference.

The 60-page declaration is a rather complex document, as it deals with many aspects of interstate and international relations. To give you a better understanding of the problems which concerned the leaders of these countries, I am presenting the following highlights from this declaration which appeared in the New York *Times* of July 29, 1975:

DÉTENTE: The participating states pledge to "broaden, deepen and make continuing and lasting the process of détente."

SECURITY: They have "sovereign equality" and the right to "freedom and political independence" and "freely to choose and develop" their systems. "Frontiers can be changed by peaceful means and by agreement." However, they recognize that "all one another's frontiers are inviolable."

FORCE: "The threat or use of force" is renounced "against the territorial integrity or political independence of any state."

HUMAN RIGHTS: The signers promise to respect "fundamental freedoms, including the freedom of thought, conscience, religion or belief."

OBLIGATIONS: They pledge to obey international law and "pay due regard to and implement" the provisions of the document, but this will not affect their "rights and obligations" or existing treaties and agreements.

● (1430)

DISPUTES: A search for peaceful solutions, through mediation, arbitration or otherwise, is promised.

MANOEUVRES: The European states promise, on a voluntary basis, to give 21 days' notice of military manoeuvres by more than 25,000 men. For the Soviet Union and Turkey, which have Asian borders, the promise applies only to a 155-mile zone along European borders. The purpose is to build confidence, and avert accidental attack.

TRADE: The participants promise to give better facilities to businessmen, including visas and hotel rooms, and endorse most-favoured-nation treatment, but on a basis that gives reciprocal advantage to market and state-trading systems.

THE MEDITERRANEAN: The participants promise to seek relations with non-European states on the Mediter-

ranean, as well as a reduction of armed forces and a decrease of tension in the area.

FAMILIES: Pledges are given to make it easier for families to unite across borders and visit one another, and for citizens to marry foreigners.

CONTACTS: Tourism, youth meetings and many other forms of contact are to be facilitated. Freer flows of information and printed matter are pledged, as are improved exchanges in education and culture.

JOURNALISTS: The states promise to reduce visa and travel difficulties, and not to expel foreign journalists without giving a reason and a chance for appeal.

FOLLOW-UP: The participants will send experts to a meeting in Belgrade on June 15, 1977, to discuss how the agreement has been applied, and whether there should be further meetings, or even a new full-fledged conference.

Apart from the signing ceremony, the sessions heard 35, mostly mechanically-read, speeches. Leonid Brezhnev, the Secretary of the Communist Party of the Soviet Union, and the driving force behind this conference, did not even refer to the Final Act, stating the conference was "a necessary summing-up of the political outcome of the Second World War." He warned that "no one should try to dictate to other peoples, on the basis of foreign-policy consideration of one kind or another, the manner in which they ought to manage their internal affairs."

President Ford of the United States was sceptical about the Helsinki Declaration, stating, "History will judge this conference not by what we say today but by what we do tomorrow; not by the promises we make, but by the promises we keep." He warned that "peace is not a piece of paper," and stressed the importance of balanced East-West reductions and strategic arms limitation by the two super-powers.

Prime Minister Wilson of the United Kingdom emphasized that détente meant little "if it is not reflected in the daily lives of our people." He could not understand why there could not be free movement of people and exchange of ideas across all European borders in modern times.

Prime Minister Trudeau warned that state activity alone could not produce security and cooperation. He stated, "Without the promise of family reunification, without the interchange of ideas and opinions, the new era of harmony we seek will not be found." His talk with Mr. Brezhnev paved the way for a settlement of the Soviet-Canadian fisheries dispute.

One wonders about the importance to the government of the Helsinki Declaration, when it took so long to be tabled in the Canadian Parliament. It was not tabled until December 22, 1975—four months later. I believe that the tabling of the document was brought about by the inquiry of Senator Eugene Forsey, who spoke on the topic the previous week, on November 27. He is to be warmly commended for introducing this topic, which subsequently was only briefly discussed in the other chamber.

The statement of the Secretary of State for External Affairs, The Honourable Allan MacEachen, was rather terse. He was of the opinion that the Final Act of the CSCE: "is intended to establish the basis for the development of future relations between their countries and peoples . . . it does not look back to the past." Further on the minister emphasizes:

> Not one word of the Final Act justifies the claim that it constitutes recognition of Soviet hegemony in eastern Europe or of the post-war *de facto* borders.

Mr. MacEachen was happy with Canada's achievement—the incorporation of "measures to assist the freer movement of people and ideas." This is all very well on the surface. There was no statement in the house from the Prime Minister of Canada, who signed the agreement. I believe that the Canadian Parliament is entitled to a report from him. Much more attention should have been devoted to this conference in Helsinki by the members of the elected chamber in view of the developments that could emanate from this meeting.

We can be grateful to Senator Forsey for his analysis and critical comments of the text of the Helsinki Declaration. His "warnings, doubts, hesitations and fears" regarding the motivations of the Soviet leaders and the leaders of the democratic states, and the implementation of this agreement, should be a cause of concern to Canadian parliamentarians, leaders and people. Canada will be greatly affected by the outcome of the Conference on Security and Cooperation in Europe. Consequently, I believe that this document should not go unnoticed, or be taken lightly, but should be thoroughly studied by the standing committees on external affairs of both houses. Expert witnesses should testify at the hearings and recommendations should be forthcoming, so that Canadians will be aware of all the implications of such an international agreement.

Canada is not a large, influential power; it is only a pawn in the game of international politics. At least, we should be aware of how we are being used and what could happen to us in the world.

Only at great peril can we obliterate the past. In approving this accord, Canada must remember that the Soviet Union is a communist totalitarian police state governed by a ruthless dictatorship having complete control over the lives of hundreds of millions of people of various origins in the largest empire in the world. It is a mistake to assume that communists keep their agreements; they have always followed Lenin's dictum: "Promises are like pie crusts, made to be broken." Stalin expressed it more fully in 1913 in these words:

> Words must have no relation to action—otherwise what kind of diplomacy is it? Good words are a mask for the concealment of bad deeds. Sincere diplomacy is no more possible than dry water or iron wood.

● (1440)

Therefore, it should not be surprising that the Soviet Union has violated more than 100 treaties and agreements.

The United States Senate Judiciary Committee in its investigations has recorded the details of over 100 Soviet treaty violations, which were published under the title *Soviet Political Agreements and Results* in 1964. The following is the conclusion of the Chairman, Senator James Eastland:

> —since the Soviet Union came into existence, its Government had broken its word to virtually every country to which it ever gave a signed promise. It signed treaties of nonaggression with neighbouring states and

then absorbed those states. It signed promises to refrain from revolutionary activity inside the countries with which it sought "friendship," then cynically broke those promises. It was violating the first agreement it ever signed with the United States at the very moment the Soviet envoy, Litvinov, was putting his signature to that document and it is still violating the same agreement—

He concluded:

I seriously doubt whether during the whole history of civilization any great nation has ever made as perfidious a record as this in so short a time.

Let us look briefly at the background of the setting of the summit session of the CSCE in Helsinki. In the winter of 1939, the U.S.S.R., then an ally of Nazi Germany, launched an unprovoked invasion of Finland, bombing the capital, Helsinki, and other parts of that country. This shocked the world. The gallant Finnish people quickly organized their defence, the famous Mannerheim line, and repelled successive Soviet attacks. However, the superior numbers and strength of the Soviet Union forced the Finns to capitulate. Thereupon the League of Nations expelled the U.S.S.R. and praised the Finns for their heroism.

In June 1940, the Soviet Union, still an ally of Nazi Germany, after having annexed Western Ukraine, and parts of Byelorussia, Bukovina and Bessarabia, militarily occupied the Baltic states of Estonia, Latvia and Lithuania, according to the Hitler-Stalin agreement on "spheres of influence" in Eastern Europe. Hitler would not allow Stalin to annex Finland, for he had designs on that country.

When Germany attacked the Soviet Union in June 1941, Finland was forced into the Axis, becoming an ally of Germany against the Soviet Union. The defeat of Hitler in 1945 meant the loss of some Finnish territory to the U.S.S.R., but Finland remained independent, which was not the fate of Poland, Rumania, Bulgaria, Czechoslovakia and East Germany.

Finnish independence has been, and is, precarious. Subject to Soviet economic pressures, pressures of the media and the Soviet build-up of naval and missile power in the Murmansk-Kola region, Finland has become increasingly subservient to Soviet policies, and the door to Scandinavia for Soviet plans—which I shall discuss a little later. The great tragedy is that Helsinki, the former proud symbol of freedom and resistance to foreign aggression, became the site of the summit session of the CSCE, which was conceived as a Soviet device to obtain the endorsation and legalization by the European countries and the U.S.A. of the Soviet territorial conquests as well as the ideological and cultural division of Europe. Helsinki is now on the road to acquiring the infamy and shame of Munich, Yalta and Potsdam, where Western powers yielded to totalitarian dictates and compromised their principles.

The idea of the security conference was conceived and promoted by the Soviet politbureau immediately after the death of Stalin in 1953. The cold war was declared ended, and peaceful co-existence was soon proclaimed by Khrushchev. When the Western powers refused a German treaty, because of the division into two Germanies, the Soviet Union pressed for a conference to obtain the "inviolability of frontiers" in all Europe. The Western countries, including the United States and Canada, stated that their interest "was less in frontiers than in humanitarian issues." The other conditions of their participation were an agreement to improve the Berlin situation, the opening of the Strategic Arms Limitation Talks (SALT), and Mutual Balanced Force Reductions (MBFR) in Central Europe. This later led to the preparatory talks on the conference in Helsinki in 1972. The driving force behind the security conference was the Soviet Union. It was part of a strategic plan for world domination.

At the time of the Helsinki Conference, the Toronto *Globe and Mail* of July 30, 1975, published a revealing article by Lord Chalfont which had appeared in the London *Times*. The title was, "The brutal reality of Brezhnev's policy." We learn that six months before the Soviet invasion of Czechoslovakia, Major General Jan Sejna escaped from that country to the West in February 1968. He was not merely the highest-ranking military defector at that time; he was the First Secretary of the Communist Party in the Ministry of Defence, the senior party official in the armed forces and a member of the Presidium, the governing body of the Czechoslovak Parliament. For 10 years Sejna was a member of the Warsaw Pact planning meetings, being especially involved in the formulation of the Warsaw Pact's strategic plan, designed to implement foreign policy objectives of the Soviet Union from 1968 into the 1980's. Sejna brought with him the secret Warsaw Pact documents.

The Warsaw Pact meeting in Moscow in the autumn of 1965, led by party boss Leonid Brezhnev, adopted the project entitled: "The Long Term Strategic Plan for the next 10 to 15 years and the years after." It consisted of 10 volumes, outlining studies of each country of concern to the Warsaw Pact, including Britain. Defined were the principal foreign policy targets of the various countries of the pact, and the specific roles of diplomacy, foreign trade, the military forces, espionage, subversion, et cetera.

The document presents the strategic plan in four phases. The first was the preparatory period of peaceful co-existence, from 1956 to 1959, when Khrushchev's policies of de-Stalinization helped to soften the West and persuaded the capitalist countries that the communists appeared to abandon military confrontation for economic confrontation.

● (1450)

The principal strategic objectives of the second phase, from 1960 to 1972, were to promote the disunity of the West and accelerate social dislocation. In Western Europe, the chief aims were to play up German nationalism and to exploit French nationalism to detach France from NATO. In the United States, the aim was to promote isolationism, domestic unrest and protest movements against the "military industrial complex." All the while, the Warsaw Pact countries were to modernize and strengthen their military forces "as a hedge against the possibility of future arms-control agreements."

The third phase, under the heading "The Period of Dynamic Social Change," covering the period 1973 to 1985, was designed "to smash the hope of false democracy," and achieve the total demoralization of the West. Friendship and cooperation with the United States would be promoted

with the object of securing economic and technological advantage for the U.S.S.R., while undermining the belief of the West to improve military defences. Every effort will be continued to weaken and break up NATO by bringing about the reduction of United States troops and commitments in Europe and eventually their withdrawal.

The fourth phase is to usher in a period of "Global Democratic Peace" in the late 1980s. A "progressive peace-loving" administration will come into power in the United States. By this time the United States will be isolated from Europe, and will be vulnerable to economic pressures. The Warsaw Pact will intensify the arms race, and will thus achieve an overwhelming superiority for the communist forces.

General Sejna states:

> There is, of course, nothing especially sinister in any of this—nor anything very new to the student of Marxism-Leninism. It is no more than the brutal reality of international power politics... every action of the Soviet Union in the international field continues to be consistent with the tactics of the plan.

When toasts were proposed in Helsinki during Brezhnev's hour of triumph, General Sejna wanted the leaders of the West to remember the words of the Soviet party boss, the author of the plan, when he spoke to Eastern European leaders in Praha in February of 1968, after the appointment of Alexander Dubcek as First Secretary of the Czechoslovak Communist Party. At that time, Leonid Brezhnev said:

> If we want to win we cannot achieve our goals without strong military forces. Did we ever say that we would not use force if it was necessary to support progressive movements in, for example, France, Britain or Sweden?... This is the sacred duty of our forces—to protect and support progressive movements.

Can this be interpreted as non-interference in the internal affairs of foreign countries? Certainly not.

The press in the Western world was generally sceptical about the Helsinki accord, and there were numerous editorials which outrightly condemned the signing. The Estonian Information Centre of Toronto last November issued a volume—I have it here—entitled *The Summit Session of the Conference on Security and Co-operation in Europe held in Helsinki, Finland on July 28, 1975.* It is a collection of 111 articles from newspapers and periodicals, many by outstanding authorities, that appeared in the New York *Times*, the *Christian Science Monitor, Le Monde, Newsweek, National Review, The Times, The Economist, Peking Review*, and in many Canadian dailies such as the *The Globe and Mail*, the Toronto *Star*, the Toronto *Sun*, the Montreal *Star*, the Ottawa *Citizen*, the Ottawa *Journal*, the Winnipeg *Tribune*, *Le Devoir*, and others.

Many outstanding authorities were highly critical of the CSCE, warning that most of the advantages were on the side of the Soviet bloc. The great Russian writer Solzhenitsyn, and the leader of the human rights movement in the U.S.S.R., Andrei Sakharov, advised against the declaration. The Soviet historian Edward Crankshaw, of Britain; George M. Ball, former American Under Secretary of State under Presidents Kennedy and Johnson; Canadian historian James Eayres; the former Prime Minister of Canada, John G. Diefenbaker; Soviet expert Mark Gayn; and many other prominent authorities and leaders spoke out against sanctifying Soviet tyranny.

The Canadian Committee of Captive European Nations, composed of representatives of peoples that were subjugated by the U.S.S.R., urged the Canadian government not to sign the agreement, and gave evidence that the Helsinki "pact" was a sell-out of the peoples behind the Iron Curtain.

How does the great communist rival, the People's Republic of China, assess the Final Act of the CSCE? It should be remembered that the Soviet Union is vying to win Western sympathy, and even technological and economic support, in the event of a possible all-out war with Red China. Here is an excerpt from the *Peking Review* of August 8, 1975.

> Time-consuming as it was, the conference did precious little more than to end up with a reiteration of the principles of the United Nations Charter. The documents and resolutions of the League of Nations before World War II likewise stipulated similar principles, but they could not prevent the outbreak of another world war. The U.N. Charter is now 30 years old, but since when has there been tranquillity on earth? Take the invasion and occupation of Czechoslovakia by the Soviet social-imperialists as an example. Could this move be in keeping with any of the aforesaid ten principles? But even in the course of the CSCE talks, officials of the Soviet delegation actually let it be publicly known that the dispatch of Soviet troops to occupy Czechoslovakia was not use of force and Moscow would do so again if and when a similar situation arose in the future. It is crystal clear that "international agreements" such as the so-called "principles guiding relations between states" have no binding force on Soviet social-imperialism as a mere scrap of paper and can in no way safeguard the security of the European countries.

Then comes the conclusion:

> But above all it suits the Soviet Union and the United States, it dovetails into their contention for hegemony in Europe and the world and it serves their mounting rivalry. It has nothing to do with the safeguarding of security in Europe.

That is the official stance of the People's Republic of China.

● (1500)

If there are some who think that the U.S.S.R. will honour its pledges regarding human rights, I wish to draw their attention to a petition that was signed by 86 members of the Senate and the House of Commons on December 3, 1975. It was addressed to Leonid Brezhnev, Secretary of the Communist Party of the Soviet Union, and sent to the Soviet Embassy in Ottawa, with the following text:

> We, the undersigned Canadian Members of Parliament, urgently appeal to the Soviet Government, in the spirit of the Helsinki Agreement, to permit the distinguished scientist Andrei Sakharov to go to Oslo to receive the deserved Nobel Peace Prize.

A reply was received on December 8 from the Soviet Embassy in Ottawa addressed to Mr. Alistair Fraser, Clerk of the House of Commons, returning the petition "in con-

nection with an unjustified request on behalf of A. Sakharov." The reply read:

> I am sure that you will find means to inform the members of the Canadian Parliament who signed the petition of the reasons which prevent the Embassy from complying with their request, as the petition cannot be qualified otherwise than an interference in the internal affairs of the Soviet Union. In the Final Act of the Helsinki Conference on European Security it is stated, in particular, that "The participating states will refrain from any interference, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating state, regardless of their mutual relations".

A reply was sent to the Soviet Embassy by Senator Eugene Forsey, which, with his kind permission, I should like to read:

> I must first express my surprise that your letter should have been addressed to the Clerk of either House, and not to the signatories of the document you had received. That document was in no sense a document of either House: it was a petition from individual members of both Houses. Neither House, and no official of either House, had any responsibility for it whatever.
>
> I am equally surprised that you invoke the provisions of the Helsinki Declaration in this matter. The passage you quote from the Declaration says that "The participating states will refrain from any interference, direct or indirect, individual or collective," etc. My colleagues and I are not "states", a point which has apparently escaped Your Excellency's notice. We are neither a state, nor a collection of states. The Helsinki Declaration, in the passage you quoted, refers solely to "states, . . . individual or collective" (that is, one state or a group of states).
>
> In any event, how can our petition be described as "interference" in the affairs of the Soviet Union? We have an English proverb, "A cat can look at a king." Surely any citizen, of any state, can address to the Government of any state, a request, or plea, or petition, asking that Government to take, or not to take, a certain action?
>
> If the Helsinki Declaration is to be interpreted in the fashion you appear to suggest in your letter, then the passages in it dealing with human rights and freedoms are just waste paper.

At this time we should take serious note of the recent visit of Mr. Joseph Luns, the Secretary-General of NATO. He spoke to the Canadian NATO Parliamentary Association on February 4, 1976, and next day to the Canadian Club in Ottawa. The *Globe and Mail* of February 5 published a short news item, captioned: "Soviet intervention in Angola imperils détente, Luns warns." He stated that the Soviet Union has successfully mounted a military operation "way beyond its sphere of influence." Soviet achievements in Angola might lead to intervention in other parts of Africa. He said that there is a contradiction in the way East and West regard détente. He is quoted as saying:

> The Western allies tend to regard détente as a move toward friendship and warm co-operation, but Warsaw Pact countries consider it little more than a tool to provide international stability while they build up their military might with the help of Western technology.

He went on to say that although the Soviet Union is not "a great success in human terms," it is "a superpower in military terms," and would not hesitate to use its military power to back political aims. Mr. Luns concluded by saying that if it gains political domination of Europe, "I do not believe that the free democratic institutions of either Canada or the United States could survive for long." A very grave warning.

The Twenty-first Annual Session of the North Atlantic Assembly, held from September 21 to September 26, 1975, in Copenhagen, Denmark, made the Helsinki Agreement the subject of close scrutiny, about which I reported to the Senate on December 4, 1975. In the resolutions it was recognized that "détente does not mean an end to deep political and ideological differences," but it is at the present time "the only valid alternative to policies of crises and confrontation." Great emphasis was placed on "a comprehensive application of the Helsinki Principles," particularly on the free movement of people and information. The most important request to the member governments of NATO was that they "monitor carefully the implementation of human, cultural, educational, and information obligations in the Helsinki Agreement so that a detailed accounting may be presented to the follow-up conference in Belgrade in June 1977."

Honourable senators, I should like to repeat what I stated in this chamber on December 4, 1975:

> NATO is the bulwark of freedom and democracy in the world, the front line of defence against the aggression of totalitarian, imperialistic powers. . . The power of the Soviet Union has been increasing at an alarmingly rapid pace, surpassing NATO's conventional forces and equipment. The Western democracies are today faced with the greatest threat since the inception of NATO, offset only partially by the rising power of Red China. This is no time for complacency. We must be alert and prepared for the worst eventuality. NATO must not be allowed to be weakened, but must be strengthened in every respect. Consequently, Canada, rich in natural resources but vulnerable, must not lag behind. Our government must commit our country to a greater responsibility and role in the North Atlantic Alliance to keep this world safe for freedom and democracy.

On motion of Senator Petten, debate adjourned.

● (1510)

THE SENATE

TELEVISION AND RADIO COVERAGE OF HOUSE AND COMMITTEE PROCEEDINGS—ORDER STANDS

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Greene, P.C., calling the attention of the Senate to the desirability of permitting complete television and radio coverage of the proceedings of the

Senate and of the public proceedings of all Senate Committees.—(*Honourable Senator Robichaud, P.C.*)

Senator Robichaud: Honourable senators, in the unavoidable absence of Senator Greene, who initiated this inquiry and who I think should be here when I make my remarks, I would ask that this order stand until March 2 next.

Order stands.

The Senate adjourned until Tuesday, February 17, at 8 p.m.

THE SENATE

Tuesday, February 17, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Balfour had been substituted for that of Mr. Fairweather on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Flynn had been substituted for that of Mr. Langlois on the list of members appointed to serve on the Special Joint Committee on Employer-Employee Relations in the Public Service.

DOCUMENTS TABLED

Senator Perrault tabled:

Reports on operations under the Regional Development Incentives Act for the months of September and October, 1975, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

Copies of Report relating to warrants issued under the Official Secrets Act for the year ended December 31, 1975, pursuant to section 16(5) of the said Act, as amended by Chapter 50, Statutes of Canada, 1973-74.

Copies of Report relating to authorizations and interceptions under the Criminal Code for the year ended December 31, 1975, pursuant to section 178.22(4) of the Code, as amended by Chapter 50, Statutes of Canada, 1973-74.

Copies of document setting forth Guidelines concerning acquisitions of interests in oil and gas rights, dated January 5, 1976, pursuant to section 4(2) of the Foreign Investment Review Act, Chapter 46, Statutes of Canada, 1973-74.

Report of operations under the International River Improvements Act for the year ended December 31, 1975, pursuant to section 10 of the said Act, Chapter I-22, R.S.C., 1970.

Copies of Order of the Administrator under the Anti-Inflation Act,, dated February 12, 1976, respecting the Irving Pulp and Paper Agreement, pursuant to section 17(3) of the said Act, Chapter 75, Statutes of Canada, 1974-75-76, together with copies of press release relating thereto.

QUARANTINE ACT

BILL TO AMEND—FIRST READING

Senator Perrault presented Bill S-31, to amend the Quarantine Act.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

THE PRIME MINISTER

VISIT TO BRITISH COLUMBIA WITH CABINET MINISTERS—QUESTION

Senator Flynn: Honourable senators, may I inquire of the Leader of the Government as to whether the visit of the Prime Minister and some of his colleagues of the cabinet, including the Leader of the Government in the Senate, to British Columbia last week was worth depriving the Senate of the presence of the government leader?

Senator Perrault: It is for honourable senators to make that determination and for history to pass judgment on the visit—if history is interested. I do want to say that the working visit of the Prime Minister and other ministers to Western Canada, specifically in this instance to British Columbia, is a practice which I heartily commend. My belief is that perhaps parliamentarians spend too much time in Parliament in what is, at times, the unreal atmosphere which exists here.

Senator Flynn: You do not speak of the Senate!

Senator Perrault: May I suggest to the Leader of the Opposition that perhaps, at times, we can make just as great a contribution to the welfare of the people of this country by meeting with them and discussing their problems as we can by deliberating and enacting legislation here.

It is my hope that in the years to come it will be possible for not only this cabinet but other cabinets to frequently hold meetings in various parts of the county. The transportation and communications facilities which exist today make entirely feasible this very worthwhile practice.

To understand the many problems which exist all over the country, I believe members of Parliament have to move around the country. They have to see the problems first-hand and to talk to those involved, whether they be British

Columbians, Albertans, Quebecois, Maritimers, Newfoundlanders, or those who live in the North, on the Prairies or in Ontario. That is one very useful way in which we can achieve the kind of interchange that is necessary in the interests of Canada as a whole, regardless of our political beliefs or where we find our provincial homes. The meeting was useful and a success, and I hope that members of other parties, some of them occupying shadow cabinet positions, will similarly engage in this kind of exercise.

● (2010)

Senator Flynn: I would simply say, since I gave the Leader of the Government an opportunity to make a little political speech—and he made exactly the one I expected—that perhaps his absence helped to expedite the work of the Senate.

Senator Forsey: Honourable senators, if I may add a brief historical footnote, it may interest honourable senators to know that formal meetings of the Privy Council, with the Governor General present, in the early years after Confederation, have taken place, not only in Ottawa, of course, but also in Quebec City, in Montreal, in Halifax, in Tadoussac and in the town of Prescott, Ontario.

Senator Flynn: Don't forget St. Patrick, Quebec.

Senator Forsey: I said meetings of the Privy Council with the Governor General present.

Senator Flynn: But St. Patrick was the Riel case.

Senator Perrault: Honourable senators, we all appreciate this historical information. If it was the practice in the past and has been abandoned subsequently, it is a practice well worth reviving. To those commentators who wrote in news reports about the meeting in British Columbia to the effect that it was nothing but a sham, I would suggest, as someone who was present, that it was very much a full meeting of a cabinet committee discussing problems facing the eastern provinces as well as the west. It was not a sham; it was a valid meeting of an important cabinet committee.

PRIVILEGES OF PARLIAMENT

COMMERCIAL USE OF PICTURE OF PARLIAMENTARY LIBRARY—QUESTION ANSWERED

Senator Perrault: Honourable senators, I should like to say a few words about a question asked by Senator Forsey on Thursday, February 5. On that occasion the honourable senator made reference to some advertising material sent out by the Publishers Clearing House, which he believed to be an American-based firm. He alleged they used in their advertising literature a picture of the parliamentary library.

I am informed that the law pertaining to the use of a picture of any part of the Parliament Buildings is found in section 17(2)(c) of the Copyright Act, which provides that the making or publishing of photographs of any architectural work of art does not constitute an infringement of copyright. The Parliament Buildings are an architectural work of art of the Italian Gothic style, as honourable senators are aware. Therefore, the publishing of a picture of the Parliament Buildings, or of a particular part such as the library, would not ordinarily require permission to be sought and given.

Senator Davey last February asked a question regarding a commercial advertising message which used a picture of the Parliament Buildings. Information was sought as to whether permission was asked of the Government of Canada to use the picture of the Parliament Buildings, and I, at that time, had to give a answer similar to the one I am now giving Senator Forsey.

As Senator Forsey mentioned, several years ago a hotel chain attempted to attach the expression "Parliament Hill" to the name of a new building, and as a result an act was passed, which was assented to on May 19, 1972, prohibiting the commercial use of the words "Parliament Hill".

I hope this answers Senator Forsey's question, albeit in a summary manner. If honourable senators wish to inquire into this question in more detail perhaps they should so indicate, and the matter might be referred to an appropriate standing committee.

I understand that the Parliamentary Librarian, Mr. Erik Spicer, had this matter referred to him in late January, and concluded that he had no control over the use of pictures of the Library of Parliament, and, to his knowledge, neither does anyone else. I have been informed that Mr. Spicer also said that pictures of the library have been used a number of times without permission, consultation, or even notification.

Senator Forsey: By the government or government agencies.

Senator Perrault: Conceivably.

Senator Forsey: Without permission.

Senator Perrault: The parliamentary librarian felt that there was no point in objecting to the use of the picture of the Library of Parliament in the present instance, as he had no control over this. He would be prepared to go further if there had been a flagrant misuse of the picture, but all he could do was make his objections known.

Senator Riley: I wonder if the Honourable Leader of the Government would permit a question?

In his statement he said that there is nothing to prevent anyone from using a picture of the parliamentary library. Does that mean that if I issued shares in some fictitious mine, or some venture like that, and the share certificates had a picture of the parliamentary library on them, the government would not intervene in any way? I have had something to do with security frauds. When a share certificate is issued with a picture of Canada's Parliament Buildings or the Library of Parliament on it, is it the intention of the government to just ignore that?

Senator Perrault: In view of past rulings on this matter, I would suggest that if the mining stock were entitled, "The Parliament Hill Quicksilver Mining Corporation," and had on it a large picture of the Parliament Buildings and the Library of Parliament, that that would constitute a grotesque use of the symbols of Parliament. The same restrictions and prohibitions, therefore, which applied in the case of the hotel would then apply to mining promoters who may wish to exploit the dignity of this place.

Senator Riley: I would also direct the attention of the leader to the fact that this does not protect the unsophis-

ticated investor. I believe it was once said by the head of the Ontario Securities Commission that if lifeguards on the beach tell the swimmers that there are sharks in the water, they will still go in. We have the questionable Carolyn Davis book deals telling us we are going to make a big income every year. Disgusting! But here we have someone putting out a piece of paper that looks like a share certificate, and it appeals to the unsophisticated. They invest money in it and the government is not prepared to do anything about it.

Senator Beaubien: What government?

Senator Riley: I don't care what government. It might have been when you were in government.

Senator Walker: That is a provincial matter you are talking about.

Senator Riley: No, it is not a provincial matter. It is a federal matter, it is a matter for Consumer Affairs, because the picture on the share certificate is a picture of the parliamentary library.

Senator Côté: It is a nice picture.

Senator Riley: There must be some way in which it can be stopped. In this particular instance, it was issued by residents of a foreign country and designed to attract Canadian investors.

Senator Asselin: Order.

Senator Côté: What was the first question?

Senator Walker: What is your question?

Senator Riley: My question is: What is the government going to do about it?

Senator Perrault: Honourable senators, I understand that the owners of this particular company, The Publishers Clearing House, have indicated that in subsequent press runs they do not intend to employ the picture of the parliamentary library.

Senator Riley: The damage has been done.

Senator Perrault: I would simply repeat my belief, which I think is supported by most honourable senators. When there is undue commercial exploitation of words like "Parliament Hill," as in the case of the hotel, in an apparent effort to suggest that somehow that commercial activity has the official seal of approval, support or approbation of Parliament, then it certainly is a matter which should be brought before Parliament for action. In any case, circumstances which subsequently arise may lend themselves to rulings at that time. If cases do in fact occur at some future time—if there is such a thing as "The Parliament Hill Get-Rich-Quick Mining Corporation,"—then Parliament can deal with them very well at that time.

● (2020)

Senator Rowe: Honourable senators, I should like to take this opportunity to ask a question related to this general matter.

It will be recalled that several commercial interests in Canada have produced, and continue to produce, Christmas cards and New Year's cards showing a picture—not a photograph but an etching, a crayon drawing or something of that sort—depicting the Centre Block. I do not know whether such commercial enterprises are entitled to make use of a picture of the Centre Block in that way, but I do object to the fact that the representation is not correct. It shows a whole storey on this building, the Centre Block of the Parliament Buildings, which does not exist.

It seems to me that if commercial or any other interests produce a likeness of the Parliament Buildings, the least that should be required is that such likeness be accurate. The particular card I am referring to is, I am sure, circulated by the tens of thousands, because we receive dozens of them ourselves every Christmas.

Senator Perrault: Honourable senators, as supporters of the free market system—

Hon. Senators: Hear, hear.

Senator Perrault: —it seems to me that if an honourable senator is concerned about the appropriateness of captions, and the correct use of pictures and photographs of these honoured and revered buildings in which we conduct the affairs of the people, the most appropriate action for him to take is to contact the commercial company involved and point out to its management the error of its ways, and hope that in subsequent issuances of calendars or cards the mistakes will not be repeated. That is the free market way.

Senator Flynn: On a question of privilege, may I say I did not raise the question of Parliament Hill.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF COMMITTEE MEETING

Senator Goldenberg: Before the Orders of the Day, honourable senators, I want to inform senators that the Standing Senate Committee on Legal and Constitutional Affairs will meet tomorrow, Wednesday, after the Senate rises, to continue its study of certain proposals in the Green Book on Conflict of Interest.

PROVINCE OF NOVA SCOTIA

STATE OF EMERGENCY DUE TO STORM DAMAGE

Hon. Ernest G. Cottreau: Honourable senators, I ask leave to make a statement relating to a state of emergency which exists in southwestern Nova Scotia.

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

Hon. Senators: Granted.

Senator Cottreau: Honourable senators, with your indulgence, I should like to draw your attention to a state of ruin and devastation which now exists in some parts of southwestern Nova Scotia as a result of the severe wind storm which hit that area on Monday, February 2, 1976. This is the same storm which Senator Dan Riley described in this chamber on February 4, 1976, with particular reference to its effects on the province of New Brunswick.

In Nova Scotia it appears that my home area is the one which received the full brunt of this extraordinary storm. I need not remind you that this part of Canada, namely, southwestern Nova Scotia, is one which has long since learned to live and cope with severe Atlantic storms; but this one outdid all others, as it packed winds with a

velocity in excess of 100 miles per hour, and it combined with high tides to give the coast a lashing the like of which has never been known before in that area.

All three counties of Shelburne, Yarmouth and Digby suffered severe storm damage. The vastness of the territory covered by these three counties makes it most difficult to arrive at an estimate of the damage with any degree of accuracy. In circumstances such as these one has to rely on the local press, and one of the local weeklies, *Le Petit Courrier*, in its issue of February 5, 1976, claims that the losses created by the storm will probably amount to $4 million.

Today I called the editor of this paper to learn that officials of the provincial Department of Fisheries estimate the loss to fishermen and the related industries to be in the area of $20 million. Tonight I read in the Ottawa *Journal*, datelined Halifax, as follows:

> Initial figures indicate $40 million to $50 million damage has been reported by fishermen in southwestern Nova Scotia as a result of a February 2 storm with winds gusting to more than 100 miles an hour, Fisheries Minister A. M. Cameron said Monday. Mr. Cameron said the final total for damaged equipment probably will be high enough to involve federal government assistance. He said he expects claims for these items to amount to several million dollars.

I suspect, honourable senators, that whatever the right figure turns out to be, it will be a heavy one. The damage runs the gamut from that of minor proportions, such as the uplifting of rooftops, the toppling of chimneys, the breaking of windows, et cetera, to that of major proportions, such as the uprooting of trees and utility poles, the demolition of mobile homes and other small buildings, the sinking of fishing vessels, and the destruction of wharves with their related buildings and equipment.

● (2030)

The hardest hit of all were the fishermen and the fishing and marine industries. In the town of Yarmouth, the sea was forcefully driven way beyond the high tide mark covering a long stretch of its Water Street. Abetted by the hurricane force wind, the sea battered to ruin many of the wharves which line the edge of the street, and along with that it took the boats which were tied up to them. Such was the fate of many scallop draggers, herring seiners and smaller lobster boats in Yarmouth, the Tusket Islands and the surrounding areas as well as in many other communities in Shelburne and Digby counties.

Perhaps I should explain that this storm struck at a point in winter when many of the lobstermen, out of respect for the rigours of the winter, traditionally pull their traps out of the water and stack them up neatly on the shore—and, wherever possible, in the interest of practicality, on wharves, some of which are their own property. After the storm, in some cases both the traps and the wharf disappeared. One wharf in particular on Turpentine Island is said to have contained 1,000 such traps at a value of between $20 and $30 apiece. This is one of the many examples of the gravity of the damage suffered by hundreds of fishermen. One bright note in this whole story is that there was no loss of life.

[Senator Cottreau.]

Honourable senators, I will not prolong my description of the storm. I would simply say that the Government of Nova Scotia has shown an immediate and warm response to the state of emergency which followed the storm in my home area. It is my belief that a program for the relief of those afflicted will be properly initiated by the province. I know that the local M.P., Miss Coline Campbell, is very much concerned about this matter and that she is doing her utmost to bring some relief to the area.

My plea at this time is for the Leader of the Government in the Senate, Senator Perrault, to take note of the situation brought about by the recent storm in my area and in other parts of the Atlantic provinces, and to lend a sympathetic ear to any request for federal assistance in the promotion of a relief program to help those whose possessions have been so tragically destroyed.

Senator Perrault: I know that all honourable senators appreciate the account given us by Senator Cottreau with respect to the devastating storm in his area. I should like to take this opportunity to assure him on behalf of the government that should an official request for assistance be forwarded to the government, sympathetic consideration will be given to it.

WESTERN GRAIN STABILIZATION BILL

THIRD READING

Senator McDonald moved third reading of Bill C-41, respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Senator Paterson: Honourable senators, may I have the opportunity to ask Senator McDonald a question before the final question is put? I should like to know if the idea behind this piece of legislation is to perpetuate the price of a loaf of bread at 60 cents or more? I ask this in view of the fact that there are 22 million consumers in Canada, half of them women and children, and many people are finding great difficulty in trying to supply their families with bread at 60 cents a loaf.

Senator McDonald: Honourable senators, this piece of legislation has nothing to do with the price of bread. It has no relationship whatsoever, in that all that this bill provides for is a levelling of farm income over a period of years. This piece of legislation does not mean that wheat will have any given price, but that the average return to the farmers will be stabilized over a period of years, thus removing the humps and hollows in returns from grain production in Western Canada. The federal government will put into the western grain stabilization account $2 for every $1 contributed by the farmers. It certainly has nothing to do with the price of grain.

Motion agreed to and bill read third time and passed.

CRIMINAL LAW AMENDMENT BILL, 1975

SECOND READING—DEBATE CONTINUED

The Senate resumed from Wednesday, February 11, the debate on the motion of Senator Langlois for the second

reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

Hon. Martial Asselin: Honourable senators, I would ask your indulgence for my being not too well prepared, having been stuck in the snow this afternoon for four hours. However, I will do my best and offer a few opinions with respect to Bill C-71, which is now before the Senate.

● (2040)

[*Translation*]

Honourable senators, Bill C-71 now before the Senate is an omnibus piece of legislation. It includes amendments to the Criminal Code proposed for our consideration. As the Leader of the Official Opposition said during the debate, I regret that such omnibus bills include a number of provisions, and often confront Parliament with difficulties. Although some of the provisions may be acceptable to us, others may not be in accord with our convictions, our conscience, our experience. We are nonetheless asked to accept the principle of such a bill composed of a variety of provisions. We are asked to approve the principle of the bill.

I feel that such a procedure does not benefit our society. Parliament cannot give a sensible opinion on each and every one of the provisions of the bill, when it is asked to decide in principle.

Bill C-71 comprises a number of provisions. It is not my intention to go into every detail of all the clauses of the bill. I would simply stress certain features raising certain questions in my mind. I would first refer to the part concerning bail.

We know that flexibility was introduced some years ago in the matter of release on bail. This was of course at the request of a number of law experts, who urged that certain parts of the Criminal Code be liberalized in order to provide for more humane conditions when it comes to bail. Unfortunately, that experiment was in my view harmful to society. It has not been understood by those who could benefit, and God only knows that in Quebec we were in for it. We paid the price of easier parole introduced some years ago. We saw parolees committing crimes, coming back before the courts, and getting away on bail even though they were under parole. They were again released because of the new bail clauses passed here in Parliament. In many cases these paroles were violated. People did not appear at their trial. They tried to escape justice. Unfortunately, in many cases the people who were released on bail because of the generosity of the court committed other crimes a few weeks later.

This is why all provincial attorneys general protested and asked the federal government to introduce more restrictive provisions in the bail legislation.

I believe that in today's society people would like to give medals to those who commit the greatest number of crimes. Of course, I have great respect for the magistrates, but I believe that in the past some of our judges have shown weakness in applying certain provisions of the Criminal Code.

It is time for Parliament to think first of all of protecting society while recognizing the weaknesses of those who commit more or less serious offenses, before giving them a chance to rehabilitate themselves. However, society will be glad to learn that we have been firmer, that we have corrected the mistakes embodied in the old bail legislation and that it will be more difficult for someone who goes before a court to be released on bail since the burden of proof will rest on the accused. The accused will have to show proof to the court, whereas in the past it was up to the Crown to show the court that the accused should not be released because of its belief that he would not appear for his trial and that it would be dangerous for society to release the accused because he could commit other crimes. But now the burden of proof has been reversed; it will be up to the criminal to prove that he deserves to be released on bail. I believe that this is an improvement and, even though I am a defence attorney, I applaud loudly these provisions because I think that they will afford better protection to our society.

The bill also contains a provision concerning the verdict of a jury. I would like honourable senators to understand what I want to say.

The other day the Leader of the Opposition explained this problem in depth. I must say that on that occasion he made one of the best speeches he has ever made in the Senate, since he showed once again his great knowledge of jurisprudence and of the law and his experience in court.

The problem raised by the jury's verdict stems, of course, from Morgentaler's trial. The question at issue has nothing to do with abortion, but the fact that a court of appeal reversed a verdict of not guilty brought down by a jury. You know the strong opposition that was raised by jurists as well as people involved with civil liberties in Canada who opposed that decision by the court of appeal, suggesting that the jury principle had been sabotaged. It must be pointed out that the then Minister of Justice described the situation of the dismissal of the verdict of acquittal by a court of appeal as a great hysteria raised by people wanting to spread disorder in society.

Senator Flynn: That was Otto Lang?

Senator Asselin: Otto Lang. However, I think that under the law the jury epitomizes the common sense of the Canadian people. The main instruction a jury is given at the beginning of a trial, for those who practised criminal law, is as follows: the accused "hath put himself upon his country, which country ye are." . From there on the jury has the exclusive right to decide whether an accused is innocent or guilty.

In that respect, it will be recalled that the Criminal Lawyers Association of Ontario stated that the Supreme Court had destroyed a basic principle of democracy by maintaining the precedence of a verdict brought down by a jury. In return, that association wants a new federal law to prevent a court of appeal from reversing a decision made by a jury.

At the time of the *Morgentaler* verdict, the Canadian Institute of Public Opinion made a public survey to determine whether or not a decision by a court of appeal could reverse the verdict of a jury, without a new trial taking place. The results at the national level showed that 48 per cent are against the precedence of a decision by the court of appeal over the verdict of a jury without there being a new trial. That is why the minister, Otto Lang, had to face

strong opposition before accepting the amendment now being considered.

Of course, there is a matter of faith in all that. For those who practised criminal law for several years, it could be said that in 90 per cent of all cases the jury served society well; the jury often helped the courts to clarify very complex facts; it also helped the court to bring about, in so far as facts are concerned, a consensus of twelve people who are there to listen, examine and decide on the facts.

● (2050)

It was said during the debate that the jury had no right to take any position on legal issues. It has long been recognized as a sound principle. The jury is master of the facts and the facts only. Even if it happens that the judge, after both parties have presented their case, gives instructions to the jury, he always adds this: "You cannot take my comments into account, but I have to inform you on the legal debate which took place between the Crown and counsel for the defence." He tells them: "You are the only masters of the facts". The judge has the right to give his own appreciation of the facts. He can tell them: "That witness swore such a thing before you but I do not believe him. But you can believe him if you decide that his credibility is sound." And I say again that the judge can give the jury his own appreciation of the facts. But the jury is definitely not required to accept the analysis of the facts made by the judge in his address to the jury. In short, again I repeat that the jury is the sole master of the facts. The debate in this place becomes very interesting because the Opposition leader raised a new law issue. I wonder whether we should not, in the light of his speech, consider more carefully the cases he sustained before the Senate. Here is his thesis in a few words. The Opposition leader did not deny, nor will other senators do so either, that the jury is master of the facts. But what he wanted to demonstrate was that in this particular case, the *Morgentaler* case, the evidence concerning abortion has been recognized by the accused. It was maintained that as the facts had been recognized, the jury had ruled on a legal issue, that is on section 45 of the Criminal Code, which in certain circumstances allows abortion.

Now, to my mind, section 45 of the Criminal Code deals precisely not only with a matter of law but also with the interpretation of the facts. In such circumstances, section 45 stipulates that an abortion can be performed by a medical doctor and can be considered legal. I feel that this important matter, which the Leader of the Opposition brought up, should be studied by the competent committee where experts in criminal law could tell us whether, in fact, when the accused has recognized the facts as true, the jury being master of the facts, is not obliged to give a verdict of guilty.

Does a jury have the right to interpret the facts in terms of the law, under section 45 of the Criminal Code, with regard to abortion? If so, can the court of appeal substitute itself to the jury and say: "You were wrong; your decision must be overruled."

First of all, I would think that all honourable senators who are lawyers are aware that only on extremely rare occasion has a court of appeal overthrown the decision of a jury on the facts, since all superior courts, courts of appeal, have always recognized, as I said, that the jury is master of the facts. Although we cannot deal here in depth with the thesis submitted by the Leader of the Opposition, I trust we can do so in committee. Though we may not be ready to move an amendment to meet the concerns of the Leader of the Opposition as well as recognize the seriousness of his documents when he made his speech last week, it might be well for us to accept the amendment as it now stands.

I do not see that a court of appeal should intervene again and again against the decision of a jury. If the court of appeal has any doubt about the decision of the jury, it should at least, as provided in the amendment, order a new trial. It should not say the jury was wrong and we acquit or condemn the defendant who has lodged an appeal. I think it would be wise to accept the amendment, but I repeat that it is extremely important to listen to experts in committee, so that they would justify and describe how to evaluate a case such as the Leader of the Opposition has submitted to us. For instance, if the accused himself admits the charges against him before the jury, should the court of appeal intervene when the jury took the decision on both legal and factual issues? Having said that, I suggest it would be extremely important to refer Bill C-71 to the committee, at least to examine this question.

I also have in mind the provision of this bill dealing with impaired driving and the breathalyzer.

● (2100)

It is ever more obvious that we have deplorable fatal accidents in this country. From experience of cases I had before the courts, fatal accidents rarely occur where fewer than at least 75 per cent of the people were under the influence. That it is a well-known fact admitted by all those who plead before the courts and also by criminologists who have studied the subject. The law is made more severe. At the present time, for a first offence the judge usually imposes a $100 or $150 fine. I am talking about my district. When someone needs a driver's licence to earn his living, it is not suspended. But in the province of Quebec, for a first offence, if you plead guilty or if you are convicted, you lose 9 points automatically out of a maximum of 12. And if you lose your 12 points, your licence is automatically suspended by the Quebec Transport Department for a three-month period. I think it is an excellent system and it has produced results in our province. At the present time, under the new legislation, for a first offence the maximum fine is $2,000 and the minimum fine $50, and also a jail sentence, or both.

Obviously, this is more severe than the former legislation, under which, for a second offence provided it has not been committed in the same year, or over a two or three-year period, the judges are still quite lenient in Quebec, but not in the other provinces. In Quebec, a fine will still be imposed but the accused person's licence will not be suspended if he can prove that he needs it to earn a living. The new provision is excessively severe. For a second offence, no fine is provided but imprisonment for 14 days. Fourteen days' imprisonment strikes me as extremely severe. And it is so, to my mind, because the government does collect fabulous amounts from the sale of liquor. If you look at the public accounts you will note how considerable those amounts are.

But, on the other hand,the government does not provide any organizations for detecting alcoholism. Our rehabilita-

tion groups for alcoholics are extremely few in number in Canada. Some people say, on the one hand, that those who are caught driving while impaired due to alcohol should be punished but, on the other hand, no alcoholism detecting services are set up, nor are there any campaigns to educate the public. In many cases, police officers enjoy chasing after people who have had two glasses of gin. I am aware of this because very often I have clients who have to appear in court. There are all kinds of persecutions going on. I think police officers should have a code of ethics of their own. The new legislation being considered provides that if a police officer has reason to believe that a person is driving while impaired, he must stop him and if he thinks that this driver is so impaired he orders him to report to the police station and submit to the breathalyzer test.

On the other hand, our policemen should not take upon themselves to chase after people who have had two or three glasses of gin. We know what the consequences are for people who are convicted: their driving licence is withdrawn and they often lose their jobs, and their families are also considerably affected by the resulting loss of income.

So, I say that the federal government, in cooperation with provincial governments, should set up detection centres for alcoholics. It would be more positive than the negative and strict provisions contained in Bill C-71. We should also provide grants to open rehabilitation homes for those who suffer from the disease called alcoholism. It is a disease like any other and some alcoholics could easily be cured. I think that we should try to be more positive in that field.

● (2110)

There is also another provision concerning rape. It is perhaps the crime most frequently committed in the last few years. And it is the crime for which denunciations are the least frequent for the reasons you all know, because the girl who is victim of that crime is reluctant to tell her story in public. I would say that less than 5 per cent of rape cases come before the courts. In the past, counsel for the defence could scrutinize the past of the rape victim. He could do so, because the law required proof that the victim was of good moral character. Such is the term used in the Criminal Code. Counsel for the defence then pursued his investigation to test and, of course, reduce the witness' credibility, to try to find out if the girl had not at other times had sexual intercourse with others before filing a complaint.

I think that the law will now encourage rape victims to more readily come forward. It is provided, of course, that proceedings will be conducted *in camera,* where public morality so requires, but mainly that counsel intending to attack the complainant's past morality must give notice to the Crown and to the complainant of his intentions to examine the girl on that particular aspect. Such evidence will be given before the judge, without the presence of the jury. The judge will decide whether the evidence adduced or tentatively adduced by counsel for the defendant is relevant. If the evidence is not relevant, the judge will not allow it to be given to the jury for its consumption.

In the whole, I submit that the provisions outlined are interesting in nature.

I would also have wished that legislation be brought to bear on other crimes that I would call modern, namely, kidnapping and extortion. Throughout Canada, and especially in Quebec, honourable senators are aware that there is now a tendency to kidnap the families of bank managers and ask for money the next day. I believe it is a crime that cannot be defined; it is aimed at bank managers' families, who are kept prisoners for days and days in order to extort money. I regret that no reference is made in Bill C-71 to such horrendous crimes, which I call modern crimes. Gangsters thought of doing that. They said the best way to get money these days is to kidnap the family, the wife and children of a bank manager, in order to extort thousands of dollars, hundreds and thousands of dollars from the bank. I believe that amendments should have been suggested to make the provisions of the Criminal Code more severe in cases of kidnapping for extortion.

I would also like the government to consider setting up a royal commission of inquiry on organized crime. A motion has already been moved in the Senate by Senator McGrand relating to organized crime, but I believe that Dr. McGrand restricted the elements of the problem because he wanted to try to discover why some people start on the road to crime from infancy. I believe we should study all aspects of organized crime, as Quebec is doing at the present time.

This has been useful to the population. In Quebec, people are now more knowledgeable. They are more aware of the underhand practices of organized crime. Honest citizens are now aware of the way that these people operate. I believe that this is useful not only to the people but also to the police forces in Quebec.

I would also like other commissions to be established to study violence and its effects on children, and the consequences of pornographic material in shops as well as in shows; to inquire why there is so much violence on television, since our children watch it and then try to imitate what they have seen. I believe that those are extremely important points that the government should look into.

● (2120)

[*English*]

In connection with these provisions, I wish to draw the attention of honourable senators to a book written by two Canadians, Dr. Louis M. Bloomfield, Q.C., of Montreal and Dr. Gerald F. Fitzgerald, of Ottawa. The book is entitled *Crimes Against Internationally Protected Persons: Prevention and Punishment—An Analysis of the UN Convention.*

If honourable senators read this book which was written by those two prominent lawyers, one from Montreal and one from Ottawa, they will know more about organized crime, not necessarily in Canada but in the international field.

[*Translation*]

I think we should, as I said earlier, refer this bill to committee to consider the aspect that I described, and without giving my consent, of course, we on this side of the

Senate support the principle of this bill. We would like the questions put by the Leader of the Opposition to receive adequate answers from experts in criminal law from the Department of Justice.
[*English*]

On motion of Senator Langlois, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE MEETING "IN CAMERA"—QUESTION OF PRIVILEGE

Senator Croll: Honourable senators, I rise on a question of privilege with respect to a statement made by Senator Goldenberg.

A meeting of the Standing Senate Committee on Legal and Constitutional Affairs was called for this afternoon. We were delayed by the weather in Toronto this morning, and finally a group of us motored here, arriving at 5 o'clock and too late for the meeting. In any event, I understand the meeting did not take place.

When I had an opportunity to look more closely at the notice I discerned that it indicated the meeting was to be held *in camera*. Whether the committee met or not, the meeting was to held *in camera*.

I am not only perplexed but astounded to learn that such a meeting would be held *in camera*. I have been present at all the committee meetings, and I know of no resolution authorizing the chairman to do this. This is not a matter that lends itself to consideration and decision behind closed doors. I think he owes us an explanation.

Senator Flynn: You are the only one who needs an explanation.

Senator Croll: Does everyone else understand it?

Senator Flynn: Yes.

Senator Croll: As to why the meeting should be behind closed doors?

Senator Flynn: Yes.

Senator Asselin: We are drafting a report.

Senator Croll: It says here, "Consideration of proposals . . ."

Senator Asselin: We are drafting a report.

Senator Goldenberg: That is exactly what it is, honourable senator. Mine was not my sole responsibility for this decision. We held a meeting. There was a quorum of the steering committee, and it was unanimously agreed last week that the meetings be held *in camera* because what we are actually doing is arriving at our decision.

Senator Croll knows perhaps better than any other senator that when a committee has finished its public hearings, and sits to consider its conclusions, it sits *in camera* and not in public.

Senator Asselin: Hear, hear.

Senator Croll: Honourable senators, the very fact that the steering committee decides on something is not in itself final. The matter has to go to the whole committee for decision. If the whole committee endorses it, then that is another matter. Until then, an undertaking of this nature is highly improper.

Senator Flynn: Senator Croll could have raised that point of order when the committee met this afternoon, if indeed it had a quorum. He can still do that. However, making a fuss in the Senate about that point is entirely irrelevant.

Senator Croll: When a committee meeting is held *in camera*, the committee deliberately meets without a reporter and therefore nothing is reported. I want it reported, and that is why I have raised the matter here. I intend to raise it time and again until it is placed out in the open so everyone can hear and see decisions being made.

If this is the beginning, then I serve notice now that none of this committee's deliberations will be behind closed doors. I serve notice so that you will know that whatever is said and whatever is done will be said and done openly.

Senator Flynn: Of course, everyone knows that anyone attending the meetings of this committee on conflict of interest must declare his interest before coming to a conclusion. Even Senator Croll should do that.

Senator Croll: I shall be delighted. My interest is to see that justice is done to the Senate.

Senator Flynn: It is just a fuss.

Senator Goldenberg: If Senator Croll had been at the meeting today he would have seen that there was a reporter present.

Senator Asselin: Hear, hear.

Senator Croll: Most unusual, because that is the first time. There will be one there tomorrow, and that is okay with me.

Senator Flynn: I hope the press is here to hear you.

Senator Croll: If they are not, they will hear about it.

Senator Flynn: That is your only point?

Senator Croll: Honourable senators, that is absolutely correct. He is right when he says it is time we be heard. Not a word has come out on this because it has been kept kind of quiet. It is time it was out in the open, and it will be.

Senator Flynn: You only rise on points which make the Senate appear rather shady. When we are doing something of importance, you do not care.

Senator Croll: I hope you do this importantly.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, February 18, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of operations under the Municipal Improvements Assistance Act for the year ended December 31, 1975, pursuant to section 11 of the said Act, Chapter M-16, R.S.C., 1970.

Copies of Order in Council P.C 1976-187, dated February 3, 1976, amending Part II of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

THE SENATE

REPRESENTATION OF THE NORTHWEST TERRITORIES—QUESTION

Senator Forsey: Honourable senators, I have one question, or perhaps two—a curious way of putting it, but the reason will become apparent in a moment—for the Leader of the Government. The first question is: Has a senator been appointed for the Northwest Territories? I may have missed something.

Senator Perrault: Honourable senators, to the best of my knowledge there has been no appointment to the senatorial seat for the Northwest Territories as yet, although I understand consideration is being given to that appointment.

Senator Forsey: That leads me to my second question. Can the Leader of the Government give us any idea when we may expect to hear of this appointment? It is now a pretty long time since provision was made for this appointment. An appointment was made for the Yukon, fairly early incidentally, and we all regret very much the prolonged absence of the honourable senator from the Yukon. I hope the government will soon get around to appointing a senator for the Northwest Territories, because I think it is a very important matter

Senator Perrault: The honourable senator has raised an important question. I know that all senators are looking forward to the day when a representative from the Northwest Territories takes his or her place in this chamber. As the honourable senator is aware, appointments to the Senate—a process which takes some time—are always made very carefully in order to ensure that people able to contribute to the public life of Canada serve in this chamber.

Senator Flynn: I suppose that reply applies also to the ten or twelve other vacancies that presently exist.

Senator Forsey: This merely compounds the sin of the government in taking so long to make the appointments.

Senator Perrault: I hope the vacancies which exist in the Senate can be filled in the near future. However, as I just said, very careful consideration is given to this process.

Senator Forsey: Yes, you have to be very careful not to let in a Tory by mistake.

Senator Flynn: It probably was in your case.

Senator Langlois: Would that be a mistake?

CRIMINAL LAW AMENDMENT BILL, 1975

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Langlois for the second reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

Hon. Léopold Langlois: Honourable senators—

The Hon. the Speaker: I wish to inform honourable senators that if the Honourable Senator Langlois speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

● (1410)

Senator Langlois: Honourable senators, the Senate is indebted to Senator Flynn and Senator Asselin for their very worthwhile contributions to the debate on second reading of this bill. I say this in all sincerity even though I do not agree with some of their points of view. However, their views should be completely studied by the Standing Senate Committee on Legal and Constitutional Affairs, to which I intend to move that this bill be referred if it receives second reading.

I do not know who wrote that very old saying, "Every story has three sides—yours, mine, and the facts." I wish to point out to the Leader of the Opposition that the story behind the *Morgentaler* amendment has more than three sides to it—his, mine, those of the judge and jury of the trial court, those of the judges of the Appeal Court of Quebec, those of the judges of the Supreme Court of Canada and, of course, the facts of the case.

I deem it impossible, therefore, to comment on these facts without infringing upon the rule that this matter should not become the subject of a debate at this time because it is presently *sub judice*. I hasten to add that my honourable friend in his address made that remark in a different way, but to the same effect. My friend took the position that although the proposed amendment is not altogether wrong, it might be going in the wrong direction.

If I understood his remarks correctly, he expressed the view that it is time to have an in-depth study of the jury system in this country. As I said, I hope that his remarks

will be studied carefully by our committee, while trying to observe this long-standing rule of not debating in Parliament a matter which is *sub judice*.

This afternoon I shall confine my remarks to brief references to the notes of the learned judges of the Supreme Court, without commenting on same. First, I refer honourable senators to page 4 of the notes of Mr. Justice Pigeon. I should mention that I am referring to the original text of the judgment, and not to the printed report, because the page numbers might differ. At page 4 he said:

> Dealing first with the defences of necessity and of section 45, it must be noted that while the five judges who heard the case in appeal—

Meaning the Court of Appeal of Quebec.

> —were all of the view that these were not available to the accused, their reasons for so deciding were not identical, especially with respect to section 45.

Concerning the defence of necessity, Mr. Justice Pigeon, after having quoted Kenny's opinion on which Mr. Justice Casey relied, added the following remarks at page 5:

> The views expressed by the other judges were not significantly different on this question. As I read them they were all of the view that there was no evidence of the urgent necessity which, as the Crown conceded may, in very exceptional circumstances, justify a violation of the criminal law, this being a common law defence preserved by section 7.3 of the Criminal Code.

Then on page 6 he added:

> Concerning section 45, three of the judges who sat on the case in appeal were of the view that this provision was not available as a defence to a charge under section 251.1, while the other two, namely, Casey and Rinfret JJ.A., appear to hold only that it was not available in the circumstance of the present case.

Also on page 6:

> I am therefore of the opinion that the court of appeal was correct in holding that the trial judge erred in putting the defence of necessity before the jury as there was no evidence to support it.

On page 9 the same learned judge said:

> Because the order of the Court of Appeal in this case appears to be without precedent, a review of the relevant legislative history is desirable.

Finally, referring to the power of the court of appeal to enter a verdict of guilty, at page 19 Mr. Justice Pigeon wrote:

> Needless to say that this is obviously a power to be used with great circumspection.

This same view was expressed later on in the dissenting opinion of the Chief Justice.

I now pass to the notes of the Honourable the Chief Justice of Canada. At page 1 of his notes, he said:

> This appeal, which is before this court as of right under section 618(2) of the Criminal Code, presents the highly unusual, if not the singularly exceptional, situation of an appellate court itself entering a conviction after setting aside a jury verdict of acquittal.

Later on the same page:

> That verdict was set aside and a conviction was entered by the Quebec Court of Appeal which found it unnecessary to send the case back for a new trial.

The learned Chief Justice continued:

> The five judges who constituted the court—

Referring again to the Quebec Court of Appeal.

> —unanimous in result but not in their reasons, concentrated on the two defences that the trial judge had left to the jury, a defence under section 45 of the Criminal Code and the common law defence of necessity preserved by section 7(3) of the Criminal Code.

I could go on citing similar comments and reservations expressed by the honourable judges of the Supreme Court, but I feel that those I have cited so far are sufficient to justify the amendment which is being proposed by the Minister of Justice in the present bill.

This amendment purports to clarify the situation, setting out in the clearest terms possible the power of our courts of appeal to deal with an acquittal verdict in similar circumstances. As an additional reason in support of the proposed amendment, I believe it can be said that the jury, having been misdirected by the trial judge and the verdict having been rendered as a result of this erroneous direction, there was in this particular case no proper judicial decision rendered. This position is enhanced by the fact that the court of appeal found that the jury was directed to give consideration to the defence of necessity, and the defence under section 45 of the Criminal Code, when the evidence was clearly insufficient to support such defences. In these circumstances it would seem to me that ordering a new trial with directions to the trial judge would have been more appropriate in this case.

● (1420)

Finally, I am of the opinion, and I assume that my honourable colleagues agree with me, that if any modification is to be made to the application of our jury system, the only place where such a modification can be brought about is in this Parliament, and in this Parliament alone. All this is said, as I observed, with due deference to the opinions expressed by the Leader of the Opposition, expressing again the hope that his views will be thoroughly considered, as I am sure they will, by the Standing Senate Committee on Legal and Constitutional Affairs.

Before I pass to the remarks of Senator Asselin, I should like to add another comment on the speech of the Leader of the Opposition in this debate, where he quoted the remarks of Mr. M. L. N. Somerville, the Immediate Past President of the Canadian Bar Association. At page 1743 of *Debates of the Senate* for February 11, Senator Flynn quoted Mr. Somerville as follows:

> It is a perfectly tenable position that the only remedy available to the Crown from an improper acquittal by a jury should be a new trial.

To my mind, this is Mr. Somerville's basic thought. He went on to criticize those of the opposing view who took advantage of this case, which has some public appeal, I grant you, to mount what he called "a furious propaganda war" against our court system. I agree with this fully. But, the basic thought expressed by Mr. Somerville is, I repeat:

It is a perfectly tenable position that the only remedy available to the Crown from an improper acquittal by a jury should be a new trial.

Senator Flynn: He said "may be."

Senator Langlois: To my mind this supports the view I am expressing at the present time. However, the contrary view is also very important, and I again voice the hope that it will be thoroughly discussed by our committee.

I now pass on to the views expressed by my good friend Senator Asselin, and since he spoke in French I shall make my comments in that language.

[*Translation*]

Senator Asselin expressed ideas which are not always the same as those of his leader, and I think the Leader of the Opposition had anticipated that position and even tried, by anticipation, to explain it by saying that his colleague Senator Asselin was more of a defence lawyer and that his sentiments necessarily led him to sympathize with the accused.

Senator Asselin: No.

Senator Langlois: It is a justifiable and very humane position, I think, and I do not believe my friend Senator Asselin should be offended by this remark.

Senator Bourget: It is not that bad.

Senator Langlois: It is not bad at all, as Senator Bourget says. It is only a humane attitude. However, I recall that in his remarks, Senator Asselin first emphasized the transfer of the burden of proof in the case of bail and if I understood him correctly, he supports the amendment which transfers, in certain specific cases well defined in the legislation, the burden of proof from the Crown to the accused when the accused wants to be released before trial. I believe that, generally, our honourable colleagues of the Senate accept this amendment, as it was accepted in the other place.

He also contradicted the Leader of the Opposition when he quoted, as reported on page 1768, I believe, of *Senate Hansard* for February 17, the following statistics, that is, the result of a public inquiry made by the Canadian Institute of Public Opinion, and I quote:

> At the time of the Morgentaler verdict, the Canadian Institute of Public Opinion made a public survey to determine whether or not a decision by a court of appeal could reverse the verdict of a jury, without a new trial taking place. The results at the national level showed that 88 per cent are against the precedence of a decision of the court of appeal . . .

Senator Asselin: Forty-eight.

Senator Langlois: Yes, pardon me, 48 per cent.

> . . . are against the precedence of a decision of the court of appeal over the verdict of a jury without there being a new trial. That is why the minister, Otto Lang, had to face strong opposition before accepting the amendment now being considered.

This is in glaring contradiction, and I trust the honourable Leader of the Opposition will not hold it against me for pointing it out to him, with what he said on page 1745 of *Hansard* for February 11 when he explained the position adopted by the former Minister of Justice, the Honourable Otto Lang on introducing this bill in Parliament. I quote:

● (1430)

[*English*]

> In this particular case what I regret is that the decision of the government, or of the Minister of Justice, was made only because of pressure brought to bear by a certain element of public opinion—and a relatively small element at that, I suggest.

Senator Flynn: But I was speaking only of those who knew something about it.

Senator Langlois: But Senator Asselin also knew something about it.

Senator Flynn: I know, but he quoted the popular opinion.

Senator Langlois: It was a public opinion survey that he quoted.

Senator Flynn: Yes, I know.

Senator Langlois: But my honourable friend will not contend that 48 per cent is a small group.

Senator Flynn: No, I would not say that, but I was speaking of those who knew something about it.

Senator Walker: The honourable senators speak so well in English, why don't they continue in English? They are much more fluent.

Senator Langlois: I thank you, but I am replying to my honourable friend, and out of courtesy to him I am speaking in the language he used in his presentation.

Senator Asselin: And Senator Walker's French is very good.

Senator Langlois: And it will be good practice for you, Senator Walker.

Senator Walker: This is free translation.

Senator Langlois: Yes, it is free translation.

[*Translation*]

Senator Asselin also added, and I fully endorse his position, that the jury system served Canadian society well. I agree with Senator Flynn, and I think he will completely agree with me when I say that if the jury can make mistakes from time to time, judges can also make mistakes, because the saying *errare humanum est* does not apply only to the jury. It applies to any human being. It is absolutely normal, and it is in our nature to make mistakes now and again.

But I think I can add, with the support of Senator Asselin, that in general the jury system serves our Canadian society well. Moreover, when discussing this bill with Senator Asselin before its introduction in this house—and I hope he will allow me to make this reference—he said to me that the jury system also made a significant contribution to the administration of justice in Canada.

I know that such is the opinion of a counsel for the defence.

Senator Flynn: I agree.

Senator Langlois: Well, my honourable friend said the other day that he had had only one bad experience before a jury, and, as far as I am concerned, I never had any in my life. I think my opinion is independent and not based on others' experience, which is not all that bad.

The other day—and I open with a parenthesis here—I was very surprised to see that my honourable friend, the Leader of the Opposition, took a dislike to me—

Senator Flynn: Never.

Senator Langlois: —for using a typical expression from Quebec because my position was based on the opinion of the former Prime Minister of Canada. This is the first time I agreed with this political leader and I do not know why I should be blamed because I agreed with him on this occasion. I wonder what crime I committed by doing so, but in any event—

Senator Flynn: I always worry when both of you agree.

● (1440)

Senator Langlois: Maybe, but you have agreed with him more often than I have.

Senator Flynn: No, no, that is not what I am talking about.

Senator Langlois: Anyway, as regards the remarks of Senator Asselin, he has outlined—and I agree with him, as I said earlier—that the argument based on new law as raised by Senator Flynn is worthy of consideration. I do not think it necessary to go over that aspect again. I am in total agreement with him on this point.

As regards provisions concerning impaired driving and the breathalyzer, I was surprised by Senator Asselin's comments, though I know that this debate lent itself to such a departure from the subject, when he suggested a rehabilitation and detection system. I agree with him in this regard but I do not think such an argument should be made during the debate on a bill that falls within the federal jurisdiction, a bill concerning the Criminal Code, whereas detection, rehabilitation and treatment of alcoholics are rather matters of provincial jurisdiction, more precisely the Department of Health. Yet he may have been justified in making such a comment, since I myself, when explaining this bill, as recorded on page 1731 of *Hansard* for February 5, made the following suggestion as regards the provisions of the bill, and I quote:

> While the amendments provide for heavier maximum fines and longer maximum periods of detention than previously, there is also provision for the judge to grant a conditional discharge to allow the accused driver to undergo treatment and undertake a program for alcohol abuse.

Perhaps this remark led Senator Asselin to make such statements and hence to depart from the subject matter when he dealt with the rehabilitation and treatment of alcoholics. In my view, the treatment and rehabilitation of alcoholics is necessary since alcohol abuse is a disease of our times, and I think all our efforts must tend toward a very elaborate treatment of this disease, this condition of our fellow citizens. I would add, however, that if there is one way to reduce often fatal traffic accidents, that way is to apply the principle on which the proposed amendment is based. In other words, to remove alcoholics from the highways before they can get involved in accidents, or give them the benefit of release through conditional discharge so they may get treated or, better still, get cured from their sickness.

I would even say that a known alcoholic should never hold a driving licence. This would protect not only the general public, but the alcoholic himself against his own disability.

I would now comment on the remarks made by Senator Asselin on the clauses concerning rape. As I understood him, Senator Asselin favours *in camera* proceedings, and the limitation of evidence on the complainant's sexual antecedents, in order to protect rape victims. I believe the proposed provisions are absolutely perfect. I believe they are introduced to remedy a situation where the complainant is victimized a second time by such public exposure, by exposing aspects of her own private intimacy often having but very indirect connection with the crime before the court.

● (1450)

Finally, I come back to the other crimes mentioned by Senator Asselin: kidnapping, extortion, organized crime. I expected he would refer directly—he did so indirectly—to the work done by the Organized Crime Inquiry Commission in our province. I believe he referred to it at least indirectly. You may correct me if you did so more directly, but I am under the impression that you did refer to it. However, I believe that you avoided talking about wiretapping. I would especially like to refer to the report submitted a few days ago. This report comes from the Solicitor General and, according to my interpretation, it aims at establishing that the restrictions on wiretapping which were introduced a year and a half or two years ago interfere with the detection and the pursuit of criminals. I hope that the Canadian Parliament will come back on its decision and follow the suggestions made by the Senate at that time. I believe that if the amendment of the Senate had been passed at that time, the report of the Solicitor General would now be different from that which was submitted a few days ago.

Now, I would like to speak to Senator Asselin's last comment about internationally protected persons. The senator seemed to agree with the purpose of the bill. He quoted—I believe he was not in the house when I moved second reading of the bill—he quoted very closely what I said on the subject, that the new provision is aimed at permitting Canada to meet its international commitments under the Geneva Convention, and that this amendment was amply justified by the events which have occurred throughout the world where diplomats have been attacked, assassinated or kidnapped in various countries. I believe that if we want to continue enjoying the benefits of a diplomatic corps which does its job in the various countries of the world with the necessary serenity and freedom of action, its members must be protected adequately, and the bill aims at giving this protection.

Finally, and I will conclude with these words so that my honourable friends do not lose their patience, I must say that I agree with the opinion voiced, I believe by Senator Flynn and by Senator Asselin, namely, that these omnibus bills are difficult to deal with on second reading. Their provisions are so different and often so heterogenous that

it is difficult to have a continuous line of thought on the subject. We are asked to go from one aspect of the implementation of our legal system to another, without any link in between.

I believe that it is in the committee phase of the bill that a direct and real study of these provisions should be made and this is why, when I moved the bill on second reading, I immediately stated at the end of my remarks that I intended to introduce a motion after the debate that the bill be referred to the Senate Committee on Legal and Constitutional Affairs for further study. I hope we will have the necessary expertise in criminal law to be able to grasp a better understanding of the full meaning behind each provision.

Senator Flynn: My honourable friend seems to find it easy to underline those small contradictions which exist between my speech and Senator Asselin's, but he had no one on his side either to contradict him or agree with him.

Senator Langlois: I understand that my honourable friend should envy the situation in which I find myself today but this has not always been the case. I have already known different situations but I prefer, as he himself probably does, that the comments which would contradict my statements be made by people who sit in front of me rather than behind me.

Senator Asselin: On this side of the house we feel free to express our views.

Senator Langlois: So do we on this side of the house, for that matter.

Senator Asselin: That is not so sure.

● (1500)

[*English*]

Senator Rowe: Honourable senators, I wonder if I might ask a question of the Deputy Leader of the Government? In the course of his remarks in the French language he said he was in favour of the suspension of the driver's licence of a convicted alcoholic—at least, that was the impression I got.

Senator Langlois: I did not use the word "convicted." I was referring to a known alcoholic.

Senator Flynn: It is not a crime to be an alcoholic.

Senator Rowe: I am wondering whether what he had in mind was a permanent suspension. We are all agreed, of course, that while a man is suffering from alcoholism he should not be driving a motor vehicle. However, somewhere along the line he may become a non-alcoholic, at which point he surely ought to be permitted to hold a driver's licence. Perhaps the Deputy Leader of the Government would care to elaborate on what he said.

Senator Langlois: Honourable senators, what I said in French was to the effect that in the spirit of the amendment before us, and as a preventive measure, it would be much better to remove the alcoholic from the road and give him a chance to rehabilitate himself before he causes serious injury.

I felt that we might consider going somewhat beyond that by refusing to issue a driver's licence to a known alcoholic. That would be a provincial matter, of course, and would be one method by which we could remove the alcoholic from the road and prevent fatal accidents.

Senator Rowe: But somewhere along the line, surely it should be possible for the individual to redeem himself. Surely there should be a period of rehabilitation following which he would qualify for a licence.

Senator Langlois: Yes. In the course of my remarks, I mentioned a rehabilitation scheme. If the alcoholic is rehabilitated, he would then be issued a licence. If he proves that he has joined the AA and that he can stick to his decision not to drink, then he would again be issued a driver's licence.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Langlois moved that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, before the motion for adjournment is put, I should like to remind you that the Special Senate Committee on Science Policy and the Standing Senate Committee on Legal and Constitutional Affairs will meet when the Senate rises.

Senator Asselin: Both at the same time?

Senator Langlois: Yes.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, February 19, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Estimates for the fiscal year ending March 31, 1977, together with copies of a news release containing a statement by the President of the Treasury Board on the said Estimates.

INCOME TAX CONVENTIONS BILL

FIRST READING

Senator Perrault presented Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Tuesday next.

Motion agreed to.

PARLIAMENT BUILDINGS

NEWSPAPER ARTICLE—QUESTION OF PRIVILEGE

Senator Rowe: Honourable senators, I rise on a point of privilege. My honourable colleague, Senator Graham, brought to my attention a few moments ago a matter that is not of great importance but one which I cannot let stand. It concerns an item in the Ottawa *Citizen* of Wednesday, February 18, 1976. The heading is: "Senators angry over the use of library in ad" and the item ends with "Senator F. W. Rowe, (PC—Nova Scotia)".

Senator Walker: You don't object to "P.C.", do you?

Senator Rowe: It reminds me of what President Roosevelt had to say about Hitler when Hitler was talking about his "New Order." Roosevelt said that it was not "new" and it was not "order."

I take it that "PC" is short for Progressive Conservative.

An Hon. Senator: Privy Council.

Senator Rowe: It could be the Privy Council.

Senator Perrault: They are mutually incompatible.

Senator Rowe: I have the utmost respect for the neighbouring province of Nova Scotia, of which Senator Graham and others here are distinguished representatives, but I must point out the historical fact that I have been living in Newfoundland for over 300 years.

Senator Walker: He is certainly getting old, isn't he?

Senator Rowe: I have no intention of removing my domicile in that island. In a little more serious vein, however, the article goes on to say:

> Senator F. W. Rowe, (PC—Nova Scotia) said he has received Christmas cards decorated with a picture of the Centre Block of the Parliament Buildings to which he objected.

● (1410)

I must point out again, as I am sure honourable senators will recall, that I did not object to a picture of the Centre Block of the Parliament Buildings. I merely suggested that if commercial interests intend to depict the Centre Block, or any other part of the Parliament Buildings, they should at least make accurate representations. The particular painting in question is inaccurate, in that it shows a complete storey which is not on the building at all. That is what I objected to in the interests of accuracy.

It is not an important matter, but still I think for the record I should point out just what the facts are. I am not a P.C.; I am not from Nova Scotia; and I do not object to the use of pictures of the Parliament Buildings on Christmas cards, providing such use is legal. I do not know what the legalities are.

Senator Perrault: Otherwise the story was accurate!

Senator Flynn: So far as the label "P.C." is concerned, I think the question of privilege should have been raised on our side.

Some Hon. Senators: Hear, hear.

Senator Macdonald: The honourable senator should feel complimented that he is shown as coming from Nova Scotia.

Hon. Senators: Hear, hear.

THE ESTIMATES

NATIONAL FINANCE COMMITTEE AUTHORIZED TO EXAMINE AND REPORT

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(e), moved:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures proposed by the estimates laid before Parliament for the fiscal year ending the 31st March, 1977, in advance of bills based upon the said estimates reaching the Senate.

Senator Flynn: Exclusively based?

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, February 24, 1976, at 8 o'clock in the evening.

Honourable senators, before the question is put, I should like to give you a brief summary of the work schedule for next week. I shall deal first with the meetings of committees.

On Tuesday the Standing Senate Committee on Foreign Affairs will meet at 2.30 p.m. to continue its study of Canadian relations with the United States. Also at 2.30 p.m. on the same day the Standing Senate Committee on Legal and Constitutional Affairs will meet to commence its examination of Bill C-71, the Criminal Law Amendment Act.

On Wednesday the Standing Senate Committee on Banking, Trade and Commerce has arranged a meeting for 9.30 a.m. on Canadian textile problems. On the same morning the Special Senate Committee on Science Policy will meet at 10 a.m. I have been advised that when the Senate rises on Wednesday afternoon the Standing Senate Committee on Legal and Constitutional Affairs will meet again to consider Bill C-71 if it has not disposed of that matter on Tuesday afternoon.

On Thursday at 9.30 a.m. the Standing Senate Committee on Foreign Affairs will have another meeting on Canadian relations with the United States, and the Special Senate Committee on the Clerestory of the Senate will meet at 10 a.m.

In the Senate we will continue the second reading debate on Bill S-31, to amend the Quarantine Act, and proceed with Bill S-32, which was introduced today. In addition to these two bills initiated here, we can expect to have Bill C-58, the *Time* and *Reader's Digest* bill, by Tuesday next.

Senator Flynn: Again, that is wishful thinking.

Motion agreed to.

THE SENATE

REPRESENTATION OF THE NORTHWEST TERRITORIES—SUPPLEMENTARY QUESTION

Senator Riley: Honourable senators, I have a supplementary to the question Senator Forsey asked of the Leader of the Government yesterday. I should like to ask the leader if there is any substance to the rumour that the government is considering advertising in the media in order to fill the long-standing vacancies in the Senate.

Senator Perrault: No such action is contemplated, honourable senators.

PROGRESSIVE CONSERVATIVE PARTY OF CANADA

BEST WISHES FOR SUCCESSFUL LEADERSHIP CONVENTION

Senator Flynn: Honourable senators, may I direct a question to the Leader of the Government in the Senate? In view of the events of the coming weekend, and in view of the leader's well-known objectivity, does he not wish to tell the Senate that he hopes that the Progressive Conservative convention will elect a man who can succeed the present Prime Minister in not more than two years?

Senator Perrault: It is said that all good things come to those who wait. Perhaps at some time in the future there will be a change in government in this land. The immediate need does not seem to be evident to most Canadians. I do take this opportunity, however, on behalf of the supporters of the government in this chamber, to wish the honourable senators here who serve so well in opposition every success with their very important convention. Our political system can only thrive on the healthy and vigorous operation of our political parties. This is an important convention, not just for our Progressive Conservative friends but for all Canadians, because it is most important that this great, historical party have the kind of leadership which can provide alternatives for the Canadian people.

Senator Bourget: You had better ask our leader to speak at your convention.

Senator Langlois: He would be a good candidate.

QUARANTINE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Fred A. McGrand moved the second reading of Bill S-31, to amend the Quarantine Act.

He said: Honourable senators, the purpose of this amendment is to provide the legislative authority for prompt and appropriate action at Canadian ports of entry should it become necessary to prevent the importation into Canada of dangerous diseases in addition to the four infectious and contagious diseases named in the schedule of the present act.

Basically, what is going on is that under the existing act quarantine action may be applied only with respect to the four scheduled diseases, namely, cholera, yellow fever, smallpox and the plague. As you know, in recent times there have been many instances of diseases being reported, and a lot of attention given to them. We do not know if they are new, and they may in fact be very old, but at least they are being identified as dangerous diseases such as Lassa fever and Marberg virus disease. These are examples of diseases which are developing and being reported around the world, but, at present, should one of these diseases be detected at one of our ports of entry, Canada lacks the authority to do anything about them.

We lack this authority because we are a signatory without reservation to the International Health Regulations. These are the regular international health regulations of the World Health Organization. Under the existing law we can only isolate or detain someone if we suspect, or if we confirm, that they have one of those four diseases. Yet we know from world health intelligence that there are indeed these other exotic diseases, and in this age when 400 people can be moved in a day from virtually one corner of the globe to another, we are threadbare and vulnerable in law.

● (1420)

What this whole exercise is about is to get legislative authority for the Minister of National Health and Welfare to do whatever might be required if we are faced with the

suspicion or confirmation of these other diseases. The minister will have some authority to take quarantine action. Essentially, then, the substantive amendments being proposed are limited to two clauses, clause 3 and clause 4.

There are six further amendments, the purpose of which is either to clarify the existing act or to make changes consequential to the substantive amendments.

Two major changes are being proposed. The first is to ensure a means within the provisions of the Quarantine Act whereby a quarantine officer at a port of entry may, in an emergency situation, and with the approval of the Minister of National Health and Welfare, order the detention of a person arriving in Canada whom that quarantine officer reasonably believes to be a carrier, or to have been recently in close proximity to a carrier, of a contagious or infectious disease not listed in the schedule to the act. Such unlisted diseases are referred to as "dangerous diseases," and are intentionally not listed in a separate schedule to the act in order to provide needed flexibility. This detention will be for a period of time not to exceed 14 days.

An important feature of the amendment is the reflection of the government's concern that the Canadian Bill of Rights be fully respected in any detention so ordered. Proposed subsection 8.1(6) makes it incumbent upon the Minister of National Health and Welfare to justify, within 48 hours, the detention order to a judge of the superior court of the province in which the person is detained. In such instances, the judge will hear the case within one day and will be empowered to revoke, vary or confirm the detention order.

The second major change is to provide for detention in those cases where it is definitely determined by a quarantine officer, as opposed to merely being suspected by him, that a person arriving in Canada has a disease considered dangerous to public health. Detention in these circumstances would again require ministerial approval but would not necessitate judicial review. In these respects, the proposal differs from the existing legislation where, for the four scheduled infectious and contagious diseases, ministerial approval for detention in either circumstance is not required, and where there is no provision for judicial review. No change in these existing provisions is proposed.

At the present time an officer has the power to board any conveyance arriving in Canada from any place outside Canada, or departing from Canada for a place outside Canada, and inspect that conveyance and any goods or cargo found therein.

Clause 1 of the bill amends subsection 7(1) of the act. The amendment accomplishes three things. First, it clarifies that it is the quarantine officer who may find a conveyance infested or contaminated. Under the act, no particular person is specified as the responsible officer. The amendment identifies the quarantine officer as the official responsible for identifying and finding a conveyance—it might be an aircraft or a ship—infested or contaminated.

Secondly, the amendment extends the application of the section to other dangerous diseases. The present law extends only to the four scheduled diseases, and this amendment makes it applicable to other dangerous diseases against which protection is sought.

Thirdly, the amendment recognizes that problems are created by airborne bacteria or viruses as well as by infestation by vermin or insects. The present law does not recognize that problems can be caused by airborne bacteria or viruses.

The next clause deals with subsection 8(1), and is a technical correction only. It amends paragraph (d) by clarifying a quarantine officer's authority to request a medical examination of persons who have been in close contact with a person who arrives ill, is suspected of being a carrier of disease, or is noted to be infested with insects that may be carriers of an infectious or contagious disease.

Clause 3 adds section 8.1 to the act. The basic purpose of this amendment is to empower a quarantine officer in emergency situations to take certain action subject to the approval of the minister and, where such action involves detention of a person in excess of 48 hours, that action is subject to review by a superior court judge. This section alludes only to dangerous diseases, and not to infectious and contagious diseases as are referred to in the existing act. The quarantine officer, if he encounters evidence of a dangerous disease other than that which is scheduled, may, subject to the approval of the minister, detain that person. However, should this be intended for a period in excess of 48 hours, the minister is obliged to report that detention to a judge of the superior court in the province where the action is taking place, and that judge must within 24 hours hear the case and he—the judge—is empowered to confirm, vary, or revoke the detention order.

Under the present act it would be possible to have an Order in Council which includes Lassa fever, in addition to the four diseases already scheduled. Canada is a signatory to the International Health Regulations without reservation, and to add a disease which the World Health Organization is unprepared to have subject, universally, to regular quarantine control would be a breach of protocol. That is why it should be done only on an "as required" basis, as opposed to a continuing basis.

With respect to the amendments in clause 2(2), I refer honourable senators to the explanatory notes contained in the bill. The proposed subsection 8(2.1) would expand the list of places where a person may be detained, and the proposed subsection 8(2.2) would designate a medical officer of health by reference to area rather than by reference to name. The present subsection 8(2) reads:

● (1430)

> Where
>
> (a) a person described in subsection (1) refuses to undergo the medical examination requested by a quarantine officer,
>
> (b) a quarantine officer suspects that a person described in subsection (1) who has undergone a medical examination requested by that quarantine officer may have an infectious or contagious disease,
>
> (c) a person arriving in Canada from a place outside Canada is unable to produce as required by the regulations evidence satisfactory to a quarantine officer of immunization to an infectious or contagious disease, or

(d) a quarantine officer believes on reasonable grounds that a person at a harbour, airport or port of entry into Canada has been in close proximity to a person described in subsection (1), the quarantine officer may

(e) detain that person

(i) in a quarantine station or a hospital, or

(ii) if he is a person arriving in Canada from a place outside Canada on a vessel, on that vessel

for a period not exceeding the incubation period prescribed for that disease; or

(f) authorize that person to leave the quarantine station if

(i) he signs an undertaking in prescribed form that he will report to the medical officer of health named therein within a period fixed by the quarantine officer and stated therein, which period shall not be longer than the incubation period prescribed for that disease,

(ii) he submits to being vaccinated against that disease, or

(iii) he signs the undertaking described in subparagraph (i) and submits to being vaccinated against that disease,

as in the opinion of the quarantine officer the circumstances require.

On motion of Senator Phillips, debate adjourned.

The Senate adjourned until Tuesday, February 24, at 8 p.m.

THE SENATE

Tuesday, February 24, 1976

The Senate met at 8 p.m., Honourable Jean-Paul Deschatelets, P.C., Speaker *pro tem*, in the Chair.

Prayers.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker *pro tem* informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Daudlin had been substituted for that of Mr. Flynn on the list of members appointed to serve on the Special Joint Committee on Employer-Employee Relations in the Public Service.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of the Export Development Corporation, including its accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report on Radon levels at St. Mary's School, Port Hope, Ontario, issued by the Department of Energy, Mines and Resources and dated December 22, 1975.

Documents issued by the Department of Energy, Mines and Resources on February 19, 1976 entitled "Radioactive Waste Locations in Canada" and "Progress Report on Radioactive Waste Investigation in Port Hope, Ontario", with annex of Atomic Energy Control Board's memoranda attached to the latter.

Copies of Rules respecting appeals to the Anti-Inflation Appeal Tribunal under the Anti-Inflation Act, made by the Chairman of the said Tribunal on February 19, 1976, pursuant to section 27(2) of the said Act, Chapter 75, Statutes of Canada, 1974-75-76.

INTERNAL ECONOMY

COMMITTEE ON BANKING, TRADE AND COMMERCE—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Banking, Trade and Commerce for the proposed expenditures of the said committee with respect to its examination and report upon the subject matter of Bill C-60, respecting bankruptcy and insolvency, in advance of the said bill coming before the Senate, or any matter relating thereto, authorized by the Senate on May 13, 1975.

COMMITTEE ON FOREIGN AFFAIRS—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Standing Committee on Foreign Affairs with respect to its examination of Canadian relations with the United States, authorized by the Senate on November 6, 1974.

COMMITTEE ON NATIONAL FINANCE—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Standing Committee on National Finance for the proposed expenditures of the said committee with respect to its examination and consideration of such legislation and other matters as may be referred to it, authorized by the Senate on December 5, 1974.

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—REPORT OF COMMITTEE PRESENTED

Senator Laird: Honourable senators, I have the honour to present the report of the Standing Committee on Internal Economy, Budgets and Administration, to which was referred the subject matter of a motion containing proposed regulations entitled "Regulations of the Senate respecting attendance of senators at sittings of the Senate and deductions to be made from the sessional allowance."

The Clerk Assistant (*Reading*): The Standing Committee on Internal Economy, Budgets and Administration, to which the subject matter of a motion containing proposed regulations entitled "Regulations of the Senate respecting attendance of senators at sittings of the Senate and deductions to be made from the sessional allowance," referred to the committee on May 21, 1975, reports that it has examined the said subject matter and now reports as follows—

An Hon. Senator: Dispense.

The Hon. the Speaker *pro tem:* When shall this report be taken into consideration?

Senator Laird: With leave of the Senate and notwithstanding rule—

Senator Grosart: Rule 78.

Senator Laird: With leave of the Senate and notwithstanding rule 78, I move, seconded by Senator Petten, that the report be taken into consideration now.

Senator Croll: Now?

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

Senator Grosart: I understand that, in effect, Senator Laird has asked permission to move the adoption of the report notwithstanding rule 78.

Without going into the details, may I suggest that before leave is granted the full text of the report be read by either the Clerk or the Clerk Assistant. Otherwise, we would be quite in the dark with respect to granting leave to adopt the report, or even to discussing the adoption of the report, at this particular time without knowing its substance.

● (2010)

Senator Laird: By the way, honourable senators, I point out that copies of the report are before you. Perhaps you would like to take one minute to see what is in it, and then you can decide whether you will give me leave.

Senator Grosart: My point, honourable senators, is that somebody said, "Dispense," and consequently the substance of this very important report, which is quite short, was not read to the Senate. I suggest it should be read before we discuss the request for leave.

Senator Croll: Honourable senators, I need more than one minute to digest this report, so I suggest that Senator Laird put it over until tomorrow, anyway.

Senator Laird: Honourable senators, I am in your hands. If you prefer that, and if you are not in the mood to give leave, that is quite all right with me.

The Hon. the Speaker *pro tem:* Unless there is unanimous consent, consideration of this report will go over to the next sitting.

Senator Laird: I so move.

Senator Grosart: Agreed.

The Hon. the Speaker *pro tem:* Did the Honourable Senator Laird move that "this report be considered at the next sitting of the Senate"?

Senator Laird: I move that consideration of this report be deferred until the next sitting.

Senator Grosart: Honourable senators, I think not, because under our rules I suggest that is not necessary. Under rule 78, a report presented to the Senate shall be received without debate, and a report which by its own terms is for the information only of the Senate—which may or may not apply to this case—shall be laid on the table but may on motion be placed on the Orders of the Day for future consideration. I therefore suggest that there should be a motion that this report be placed on the Orders of the Day for future consideration.

Senator Langlois: The motion was made.

The Hon. the Speaker *pro tem:* Is it your wish, Honourable Senator Laird, to move such a motion?

Senator Laird: I did make that motion.

The Hon. the Speaker *pro tem:* It is moved by the Honourable Senator Laird, seconded by the Honourable Senator Petten, that this report be placed upon the Orders of the Day for consideration at the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

PRIVATE BILL

HONEY BEAR BREWING CORPORATION LIMITED—REFUND OF FEES

Senator Haig, with leave of the Senate, moved:

> That the parliamentary fees paid on a proposed bill respecting Honey Bear Brewing Corporation Limited, of the City of Winnipeg, in the Province of Manitoba, be refunded to the petitioners, less the sum of $65 for printing and translation costs.

He said: Before this motion is put, honourable senators, I should like to offer an explanation.

The fee paid in this matter amounted to $650, made up of a parliamentary fee of $200, and $450 for the printing and translation of the bill, of which there were to be 800 copies in English and 300 copies in French.

At the time it was decided to abandon the petition, the Printing Bureau had provided the Law Branch with 15 page proof copies of the bill. As the matter had been closed, and no additional copies were required, the Printing Bureau billed the Senate for $65. Therefore, Mr. Halter, the petitioner, should get a refund of $585.

Motion agreed to.

THE ESTIMATES

DISCUSSION IN SENATE—QUESTION

Senator Croll: Honourable senators, I have a question for the Deputy Leader of the Government. On Thursday last the Senate adopted the following motion which was moved by Senator Langlois:

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures proposed by the estimates laid before Parliament for the fiscal year ending the 31st March, 1977, in advance of bills based upon the said estimates reaching the Senate.

That is the normal motion, and I have no objection to it. It is an appropriate motion. The committee studies the estimates and eventually presents a report to the Senate, usually a day or two before legislation granting full supply is introduced.

Furthermore, when interim supply bills are debated, Senator Langlois usually says that all senators' rights are being reserved and that if anybody wishes to speak on the subject, he or she may do so. Well, honourable senators, I have been here 20 years and I have never yet heard anybody speak on these items, except the Leader or Deputy Leader of the Government and the Leader of the Opposition. I do not object to this practice, because I realize that if any senator wished to speak to these items then he or she could have done so.

However, honourable senators, I would make this suggestion to you. In view of the small amount of work we have on our order paper why can we not, when we refer the estimates to committee—and I am not suggesting at all that we interfere in any way with the work of the committee—allow the item to stand on the order paper so that any member of the house may be able, if it seems to be appropriate to do so, to speak on any item contained in the estimates? In that way the estimates can be spoken to inasmuch as they may relate to, say, Newfoundland, the Maritimes, or any other region.

We would be greatly assisted if the estimates, on being sent to committee, were not taken off our order paper. This, in turn would allow a great number of senators to participate, it would generate interest, and it would provide work for the Senate. At the same time there would be added interest in the work being done on the particular estimates in question.

Honourable senators, my question to the Leader of the Government is: Why can't this be done to stimulate work in the Senate?

Senator Langlois: Honourable senators, in this respect we are following the usual practice whereby the main estimates, when tabled, are referred to the Standing Senate Committee on National Finance for study in advance of bills based thereon coming before the Senate. When this committee presents its report, any senator is welcome to speak to it. Later, a supply bill, which usually covers a three-month period, is introduced to approve part of the estimates. Even then, when part of these estimates are passed, each item contained therein is still open for discussion. The passing of a particular item does not preclude any further discussion. In my view, ample opportunity is given to every member of this house to discuss the estimates. We do not have to wait until the final estimates are brought in to speak to any item passed on any of the occasions I have mentioned.

Senator Grosart: Honourable senators, I thought the chairman of the committee might have some comment to make, but as a member of the committee perhaps I can say that I am sympathetic to the suggestion made by Senator Croll. On the other hand, I see some definite procedural difficulties. It would be very unusual to refer a bill or estimates to a committee, and then while that bill or estimates are under consideration in committee to have a debate in the Senate itself on the subject matter under discussion by the committee. I can see some grave difficulties in that. However, I appreciate the concern of Senator Croll that opportunity be given for adequate discussion in the Senate with respect to the estimates. It happens very often that the report of the Standing Senate Committee on National Finance is presented fairly close to the time at which we receive the first appropriation bill based on the estimates. We have at least a convention, if not a rule, that the main estimates are referred to the National Finance Committee before discussion takes place in the Senate. In this way the Senate is assured that a committee of the Senate has examined the main estimates in detail. This has happened, and Senator Everett, the chairman of that committee, has made very sure that it does happen.

• (2020)

There has been, in my opinion, a fairly full examination of the estimates in committee. I am sure that Senator Everett has the intention of calling the committee soon to discuss the estimates so that the committee's report will be presented to the Senate in plenty of time. That, it seems to me, is the time at which there could be every opportunity for full discussion of the estimates. In my opinion, the main point is that the report of the Standing Senate Committee on National Finance should be presented in the Senate well before the commencement of debate on the first appropriation bill.

Senator Everett: I might say, in answer to Senator Grosart and Senator Croll, that of recent years it has been the practice of the Standing Senate Committee on National Finance, rather than spending its time duplicating the work of the other place by going through the estimates in detail, department by department, to select a department, a program, or an agency and carry out an extremely detailed examination of it. In my opinion, it is possible to complete the work of reviewing the estimates much earlier than we have been able to in the past, and to have the committee's report presented in the Senate for debate well in advance of the supply bill. However, this would necessitate some type of mechanism whereby the committee could continue its examination of a particular department, agency or program after the estimates are reported to the Senate itself.

In this connection, I might say we are just completing our report on Canada Manpower, which we hope to present to the Senate within the next two or three weeks. It is the present intention of the committee to embark upon an examination of certain of the programs in the Department of Industry, Trade and Commerce. I would respectfully suggest that this is a subject into which the deputy government leader might wish to enquire. If the administration introduces a motion whereby we can review the blue book and present a report to the Senate, and continue with our main investigation of the Department of Industry, Trade and Commerce, I am sure we would be able to present the blue book for debate well in advance of the time at which the supply bill comes before us.

Senator Langlois: Honourable senators, I am in full agreement with the suggestion of Senator Grosart and Senator Everett that we should be given an opportunity to receive the report of the Standing Senate Committee on National Finance before any supply bill based on the main estimates reaches us. I would hope that this could be achieved without precluding any particular study that the National Finance Committee might wish to make of a particular department. However, if we receive the report of the National Finance Committee on the estimates earlier than usual, it might allow more time for debate on the whole estimates.

Senator Everett: May I say to the deputy leader that one of the reasons why the Senate does not get the report before the supply bill is due to the fact that the committee tries to keep the subject open for as long as it can in order that it can proceed with its specific investigation. If there were some mechanism whereby the committee could commence its specific investigation, return the estimates, and then carry on with the investigation, the report of the committee on the general estimates could be presented to

the Senate for debate, and the committee itself could carry on with its specific investigation.

Senator Grosart: Would Senator Everett not agree that there is probably not really a conflict here, because normally the report of the committee on the estimates comes to the Senate long before the report on the specific department under investigation. This is the case at the moment with the Canada Manpower inquiry. That inquiry originated under the main estimates of last year. It is still going on and there has been no report, but in the interim there has been a report on the main estimates. Therefore, I ask the chairman of the committee if he would not agree that the main and immediate responsibility of the committee is to report on the estimates and not on these specific inquiries, very useful though they are?

The Hon. the Speaker *pro tem:* Honourable senators, I intervene at this time to point out that we are on the Question Period. A question has been asked by the Honourable Senator Croll and answered by the Deputy Leader of the Government. That question has now developed into a debate. I did not consider intervening before. Honourable senators may wish to continue the discussion on this subject, but I remind them that we are now on the Question Period. I understand that Senator Everett would like to say something further.

Senator Everett: Honourable senators, in reply to Senator Grosart I should like to say that we embark upon the special investigation at the time the estimates are in our hands. It has been customary to delay the report on the estimates until just before the supply bill comes to us. At that point the committee faces a crisis, and we get around it by a special motion.

I am suggesting that we have the estimates referred to the committee, and the committee could determine what specific study it is going to undertake in connection with them. The committee would then be free to report back on the estimates, and continue with the special study which is an integral part of its work in looking at the estimates. This is a procedure we have developed, and it is one which I think is very important to the work of the Senate on the estimates.

In former times the work the Senate did in connection with the estimates was merely a duplication of the work of the other place. That did not mean a great deal, so we developed the concept of zeroing in on one department and studying it intensively. The committee would like to continue with that concept. I am asking for some mechanism whereby we can commence that study at the same time that we consider the estimates, refer the estimates back for debate in the Senate, and then carry on with the study.

Senator Sparrow: Honourable senators, I do not believe the discussion is zeroing in on what Senator Croll has asked. It seems to me that we should make provision for an open end in both the committee and the chamber. I believe that is what Senator Croll is asking for. As a member of the National Finance Committee, I am not certain that I want to quickly report the estimates to the house, thus precluding the committee members from discussing any item in those estimates they want to discuss, except those concerned with a particular study the committee may be engaged in.

[Senator Everett.]

• (2030)

There are many times when a member of the committee may want to call witnesses before the committee on a certain subject before the supply bill is brought down. The chairman has said he is interested in providing for a special study to zero in on a particular department. As a member of the National Finance Committee, I want the estimates left open for as long as possible.

I agree with Senator Croll, however, that there should be provision for discussion in the Senate as well, thereby allowing any honourable senator to discuss a particular department or item in the estimates. This could perhaps be achieved by way of an inquiry drawing the attention of the Senate to certain aspects of the estimates. I, for one, certainly do not want to shut off any discussion or prevent members of the committee from bringing any item before the committee.

Senator Croll: I wish to thank the honourable senator for understanding exactly what I was trying to get at. I realize that the committee must limit itself to perhaps one department in order to have a full grasp of that department, but there are 12 or 15 other departments about which some honourable senators may wish to speak. By allowing such discussion to take place in the chamber, we would not be rushed and the Senate would be ready to deal with the supply bill when it arrives.

Senator Everett: The honourable senator knows full well that in examining the blue book it is the practice of the committee to go through it department by department. We do not make the references that are made in the other place, nor do we spend the same amount of time on it, but we do select one department into which we conduct an intensive and thorough study.

It is not a case of taking the blue book and reporting on it within a few days or a week. What we are talking about is a fairly lengthy process. The report is presented to the Senate sufficiently in advance of the supply bill's coming to us so as to allow for adequate debate, provided we have the mechanism whereby the committee can make a special study of a particular department without having to keep the estimates open. That is the way we have operated up to now.

As Senator Grosart has said, I do not think we should fall into the trap of referring a matter to a committee and, at the same time, keeping it before the chamber.

Senator Grosart: Honourable senators, in an endeavour to stay in order may I ask the chairman of the committee if he would not agree that the mechanism which he appears to seek is already in place? The committee can quite properly make a first report on the main estimates, putting that report before the Senate so that discussion ranging over all the estimates could then ensue, and then a second report dealing with any specific department or departments.

I do not understand why this committee cannot deal with the main estimates in that way. In my experience, it has never taken more than one meeting for the committee to deal with the main estimates, although there may have been occasions when it took two. I do not see why the committee cannot report back on the estimates generally so that they are open for discussion in the Senate, which I

think should be the case, followed by a second report dealing with any other specific matters.

Senator Croll: I think that is an excellent suggestion.

Senator Everett: I would be delighted if that were the solution. I think that would answer all of the problems.

Senator Grosart: Agreed.

Senator Everett: I should say it is not entirely true that the committee takes only one or two meetings to deal with the main estimates. Some examinations of the main estimates have involved eight or 10 meetings. I think it stretches the truth a little to say that the committee takes only one or two meetings to deal with the estimates.

ESTONIA

FIFTY-EIGHTH ANNIVERSARY OF THE PROCLAMATION OF INDEPENDENCE

Senator Yuzyk: Honourable senators, before the Orders of the Day are called, I should like to draw the attention of the Senate to the fact that today, February 24, marks the fifty-eighth anniversary of the Proclamation of the Independence of the Estonian Democratic Republic.

On this day in 1918, after being subjugated for centuries by the Russian Czarist regime, Estonia, by the will of her people, became a free country with an advanced democratic constitution. Thus, these people prospered and lived in peace with their neighbours until June 1940, when the Soviet forces occupied their land, as well as Latvia and Lithuania. This was done in cooperation with Hitler's Nazi Germany. Later Soviet Russia annexed the Baltic States, making them an integral part of the Soviet Union.

The Western powers did not recognize the annexation of the Baltic States by the U.S.S.R. Canada and the United States, up to the present time, do not recognize this Soviet occupation, and still give recognition to the consuls of Estonia, Latvia and Lithuania in our respective countries.

Honourable senators today received copies of the United States House of Representatives Resolution No. 864, together with the Sense of the House regarding the Status of the Baltic States of November 20, 1975, which was passed unanimously. The resolution reaffirms and strengthens the existing United States foreign policy of non-recognition of the illegal annexation of the Baltic States by the Soviet Union. Such a resolution gives sincere encouragement to the millions of Eastern Europeans who are suffering under the heavy yoke of the Soviet Russian Communist dictatorship.

I should like to congratulate the Canadian citizens of Estonian ancestry for their devotion to the principles of freedom and democracy, and to pay tribute to them for their many contributions to the building of a better Canada for all citizens.

I feel sure that all honourable senators will join with me in this tribute, and will extend our best wishes to the Estonians for the realization in the near future of the freedom of their country.

QUARANTINE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, February 19, the debate on the motion of Senator McGrand for second reading of Bill S-31, to amend the Quarantine Act.

Hon. Orville H. Phillips: Honourable senators, my remarks on Bill S-31 will be very brief because the bill is not controversial, and it certainly is not very exciting. It is a housekeeping bill; or, since it deals with decontamination, perhaps we should term it a housecleaning bill. The amendments in the bill recognize that aircraft are now a means of conveyance, and we are bringing the Quarantine Act into the jet age, so perhaps the bill should be termed S-747 instead of S-31.

The amendment in clause 7(1) includes dangerous diseases other than the four presently covered by the Quarantine Act, namely, smallpox, cholera, yellow fever and the plague. The other day when I heard Senator McGrand mention the plague in his opening remarks, I found myself looking at certain senators opposite. Then my thoughts went down the corridors to the treasury benches in the other place and I realized that the difficulties in this country are caused by a plague of Liberalism. I often wondered why Mr. Stanfield was unsuccessful in removing the present government from office, and I came to the conclusion that he should have been using the Quarantine Act instead of the Elections Act. Perhaps a great many Canadians now feel they are quarantined by the Anti-Inflation Board. Honourable senators will forgive me if I take this opportunity to point out to them that during the past weekend a new political antibiotic has been developed and its name is Joe Clark. Canadians can now look forward to a relief from the plague of Liberalism.

● (2040)

The inclusion of another dangerous disease is the necessity not only to speed up international air traffic, due to our giant airliners, but it is now recognized that many of the so-called ancient viruses—ancient in that they have been recognized for some time—by merely changing the amount of their protein content can produce a new influenza. Therefore, it is essential to have the means of providing protection on a required basis rather than on a continuing basis.

I listened with interest to Senator McGrand's explanation that appeal provisions are to be provided under subsection 8(1) in order not to contravene the Canadian Bill of Rights. It is rather unusual to see this government have such respect for the Bill of Rights. It makes me suspect that in future legislation we will see a minor amendment to the Quarantine Act illustrating the respect the government has for the Bill of Rights.

Clause 1 of the bill recognizes that problems are created by airborne bacteria and viruses. These are placed in the same category as other contaminants such as vermin and insects.

Honourable senators, it is going to be an entirely different procedure in decontaminating a rat infested vessel than it is in decontaminating a modern airliner. I note that the legislation gives no specific instructions as to the procedure to be followed in this case. As I said earlier, the

amendments are not controversial or significant, so there is no opposition to them.

Hon. John J. Connolly: Honourable senators, we are indebted to Dr. McGrand for the fine explanation he gave this bill, which, as Senator Phillips has said, is primarily a housekeeping bill. I welcome its introdution in the Senate. I hope it to be the beginning of a long line of housekeeping bills which are required for many statutes by various departments. This is a special opportunity for this chamber to look at this kind of legislation and make sure that it satisfies the requirements of the times and the ideals of Parliament.

This bill is about quarantine. Many of us can remember that our first notion of quarantine was in seeing a card in the front window of a house warning the public that the occupants had typhus or smallpox or scarlet fever or even measles. We did not think very much about the Latin derivation of the word, which involved forty days. We just knew that people were going to be locked up for awhile. We also knew that it meant segregation because of communicable contagious diseases being rampant in society. We also had isolation hospitals to deal with these cases.

Later we learned that quarantine involved health inspection at ports of entry from abroad. Those of us who read American history know about the problems they had over the years on Ellis Island, and, knowing our own history, about some of the problems that were created in our own great ports of Halifax, Quebec, Montreal, and Vancouver.

We had somewhat of a horror of the words "immigration sheds," because people were thought of as being cooped up and perhaps inadequately cared for, and that they were mostly poverty-stricken, immigrants. We have also had a fear even in our day, I think, of the spread of communicable diseases. A few days ago when the tragic earthquake hit Guatemala, one of the first reports reaching us through the media was about the danger of epidemics and the need for medical supplies and medical attention.

In the course of history there have been many disastrous epidemics. We know about the terrible black death in Europe in the fourteenth century when over 25 million people, about a quarter of Europe's population, died. In the seventeenth century the London plague claimed some 70,000 lives, depleting London's population by 15 per cent. In the decade between 1896 and 1906, a cholera epidemic struck Africa and the Far East. Some four million deaths were reported in India alone.

In 1847 we had a very serious situation in this country, primarily because of the potato famine in Ireland. The potato crop had failed but not the grain crop and not the cattle business. There was a mass exodus from Ireland at the time. One hundred thousand were overcrowded into ships destined for Canada. The unsanitary conditions were unspeakable. The people could not go to the United States because of the strictness of their immigration laws. But immigration was open in Canada. The policy of the British Government, if there was any, seems to have been to remove the people from the famine-stricken areas of Ireland. Canadian facilities were primitive and inadequate, and the province of the United Canadas, as it was at that time, really had no immigration policy and certainly no official warning.

[Senator Phillips.]

Between May and November of 1847, some 400 ships came into the St. Lawrence, mostly from Ireland, a few from Scotland and some from England. These ships were desperately overcrowded with young and old, many of them ill. The trouble spot in Canada was at the quarantine station on Grosse Isle, about 33 miles east of Quebec.

● (2050)

These ships were overcrowded with people who were afflicted by ship-fever, typhus and cholera. There was no vaccination and no adequate facilities to look after them. Accounts of the situation on Grosse Isle indicate that conditions there were simply appalling. Over 16,000 people died at that time. It is estimated that 4,000 of them died at sea; 1,100 died on the ships at anchor at Grosse Isle, because there were no facilities to look after them even if they could have disembarked; over 3,300 died on Grosse Isle; some 700 died in Quebec; and about 5,300 died in Point St. Charles in Montreal. And of the people who went to various places in Ontario, over 3,000 also died. There were many deaths at that time after the arrival of ships at Saint John.

The authorities simply could not keep up with the demands placed upon them. It is estimated that between 10,000 and 12,000 people were buried in a common grave on Grosse Isle.

The heroism of the people was outstanding, as was the heroism of the doctors, the nurses, and the clergy of all denominations who ministered to the sick as best they could in the circumstances, even to the point where many of them died as well. The compassion shown by the people in the little towns and villages near Quebec was of a nature not to be forgotten. The French Canadian families opened their hearts and their doors to the Irish babies, many of whom had been orphaned either on the way to or on Grosse Isle, and adopted them, making them part of their families, raising them and starting them off in life.

A monument to the memory of those fever victims was raised on Grosse Isle in 1909. Of the many fine orators, and the principal speaker, on that occasion was the then Secretary of State for Canada, the Honourable Charles Murphy. Later he was a respected senator. I knew him well, and I revere and treasure his memory. He told me the story—and I have read it in accounts of the occasion—of a Madam Roberge who appeared at the ceremony with her two daughters. Neither Madam Roberge nor her two daughters could speak one word of English, yet her name had been Ellen Cox. She had been one of the orphaned children adopted into French Canadian families.

Honourable senators, we have come a long way in the 130 years since that time. As Senator Phillips has said, today we have thousands disembarking from giant aircraft and passing swiftly through immigration. We have new techniques, new procedures and new controls for processing them. Mass air travel is possible because of the great advances in modern medicine. Without those advances we would not be able to have such means of transportation.

I feel this is an appropriate time and place to pay tribute to the dedication and skill of the professionals who have assisted in this great task. I refer to the research scientists whom it is impossible to enumerate—men such as Pasteur and Fleming. I refer to the dedicated people in the medical profession who, through the years, have struggled with

tremendous problems of such great importance to mankind. I refer also to the medical officers of health who, though seldom thought of, are responsible for administering the legislation which is intended to safeguard the public health from the onslaught of communicable diseases.

On the one hand, we have the contribution of medicine and, on the other, the political decisions which have had the effect of assisting the development of safe travel and good health generally. Let me illustrate that point with a story about a man called John Snow. I do not know if he was a doctor, but I suspect he might have been. He lived in London, England, in the 1800s. In 1824 he learned of an outbreak of cholera in a section of London, the Parish of St. James. In that one small area there were 500 deaths within ten days. John Snow went there immediately to observe what was happening. Once he was there he questioned the people, and observed their customs and habits. He watched what they did and how they lived. He formed the opinion—and this was at a time before there was any thought of testing water—that perhaps the Broad Street pump was the source of contagion, and took action. He went to the guardians of St. James's Parish and persuaded them to remove the handle from the Broad Street pump. Once that was done, the epidemic came to an end.

That is a simple story, but it is significant because it illustrates the importance of political action in achieving ends of the kind which the measure before us is trying to achieve. What John Snow did in persuading the guardians of St. James's Parish to remove the handle from the Broad Street pump was a political act.

As Senator Phillips has said, the measure before us is a housekeeping bill. I am pleased to see it introduced in the Senate. If we take a little time to consider the background of bills of this sort, I think we can do much to improve the character of legislation in many fields. I am sure this bill will improve the Quarantine Act.

On motion of Senator McGrand, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

29555—62½

THE SENATE

Wednesday, February 25, 1976

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

Prayers.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

February 25, 1976

Madam,

I have the honour to inform you that the Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 25th day of February, at 5.45 p.m., for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière
Administrative Secretary to the
Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

CANADA YEAR BOOK

NOTICE OF INQUIRY

Senator Desruisseaux: Honourable senators, before the Orders of the Day are called I should like leave of the Senate to speak briefly on the subject of the *Canada Year Book*, which was issued a few weeks ago.

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

Senator Flynn: I am not sure. It seems to me that it would be more appropriate if Senator Desruisseaux were to give notice that he will call the attention of the Senate to this particular subject either tomorrow or some time next week. Is there some special reason why it should take precedence over the Orders of the Day? If the honourable senator's speech were no more than five minutes I would not mind, but it would certainly not be the regular way to proceed and we do have legislation to consider.

Senator Desruisseaux: I realize that. You are quite right and I will not ask for leave today. I will simply give notice that on Tuesday evening next I will speak briefly on the subject of the *Canada Year Book*.

QUARANTINE ACT

BILL TO AMEND—SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator McGrand for second reading of Bill S-31, to amend the Quarantine Act.

Senator McGrand: Honourable senators, I have nothing to add at this time. If the bill is given second reading, I intend to move that it be referred to the Standing Senate Committee on Health, Welfare and Science.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator McGrand moved that the bill be referred to the Standing Senate Committee on Health, Welfare and Science.

Motion agreed to.

NOTICE OF COMMITTEE MEETING

Senator Carter: Honourable senators, I should like to have leave to make an announcement with respect to the consideration of this bill in committee.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Granted.

Senator Carter: Honourable senators, I had hoped to be able to hold a meeting of this committee this afternoon when the Senate rises.

Senator Flynn: Why not yesterday?

Senator Carter: Unfortunately, neither the minister nor his parliamentary assistant is available to appear before the committee this afternoon. You can see from the Order Paper that tomorrow morning is filled up with committees, and on Thursday, March 4, the committee will be occupied with witnesses who have been asked to appear in connection with Senator McGrand's motion respecting crime and violence. As a consequence, unless the opportunity occurs earlier, at present unforeseen, it will not be possible to consider this bill until March 11. I am told, however, that there is no great hurry for consideration of the bill at the present time.

Senator Flynn: You do not have to be told. You know.

● (1410)

INCOME TAX CONVENTIONS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Daniel A. Lang moved second reading of Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel.

He said: Honourable senators, the bill now before us is rather a formidable looking document, but I want to assure you that this afternoon I am not going to make a speech that is as formidable as the document is in appearance. I think even a most cursory perusal of the bill will make the reason for my decision self-evident.

Honourable senators will recall very vividly the mammoth exercise that Parliament went through in 1971, which produced our so-called tax reform law and the new Income Tax Act that went into force on January 1, 1972. At that time Canada had in effect conventions, or tax treaties, with 16 other countries, which tax treaties had been in effect for many years, some of them dating from the end of World War II. The fundamental concepts or changes in concept involved in our tax reform measures necessitated that we enter into negotiations with all these countries and, indeed, it is anticipated that we shall have to enter into negotiations with an equal number in the future with a view to obtaining conventions with them covering taxation areas of interest to Canada and each of the other countries concerned.

The first three conventions to have been successfully negotiated out of the 16 extant at the time of the tax reform legislation are reproduced in this bill. They are treaties with France, Belgium and Israel. These treaties come before us today to be ratified and to be enacted into law.

Honourable senators will notice that the treaties themselves are attached to this bill as Schedules I, II and III and comprise some 73 of the 76 pages of the total bill. The first three pages of the bill are the enacting provisions, and these in turn are divided into four parts. I think I can deal with these briefly.

Part I deals with the convention with France, Part II deals with the convention with Belgium, and Part III deals with the convention with Israel. Each part is almost identical in wording, and the operative section declares that the appropriate schedule, which is the convention, shall have the force of law. Part IV is entitled "Supplementary Agreements" and that part of the bill confers upon the Governor in Council the power to declare by order any subsequent supplementary agreements made with the three countries in question to be approved by Canada. It is interesting to note that such an order must, after its issue, be laid before Parliament within 15 days or, if Parliament be not then in session, within 15 days of the resumption of a session.

Senator Flynn: Or the beginning of a session, I suppose?

Senator Lang: A new session, yes.

Senator Flynn: Because we are still in the first session of this Parliament.

Senator Lang: Thereafter the order comes into force within a further 15 days unless Parliament takes affirmative action to revoke it. I also note that clause 12 seems to contemplate the enactment of new rules by the House of Commons and the Senate to accommodate this sort of procedure within the normal procedures. I assume this to be contained in the legislation in anticipation of many other such bills of a similar nature that might come to us, or are certain to come to us over the next few years.

That is all I intend to say with respect to the bill itself and that, in fact, is about all there is to say with respect to it.

Now I will go through the schedules themselves and, for obvious reasons, I will deal with the highlights of these treaties and their provisions in only a general manner.

I intend, when and if this bill receives second reading, to move that it be referred to the Standing Senate Committee on Banking, Trading and Commerce. I know that in that committee, under the chairmanship of Senator Hayden, with all his perception and his penetrating scholarship in these matters, all senators will have an opportunity to delve into the interstices of our international taxation scene.

Honourable senators, fortunately, the three schedules representing the conventions with the three different countries are almost identical in nature, and therefore I do not intend to attempt to distinguish between them, nor to deal with them individually.

It is quite interesting to note that these conventions follow a model convention promulgated by the OECD. I would say at this time that I consider it most fortunate that the OECD does make efforts to achieve international uniformity in such laws. As these conventions bind the countries which are signatories to impose a lesser rate of tax on income flowing to the other signatories, a large part of these schedules comprise agreement on definitions, on questions of domicile, and as to what constitutes a permanent establishment, and so forth, and all of them are concepts which honourable senators are familiar with from other such tax treaties. Thereafter these schedules deal with the matters which are of most general concern, namely, the payment of dividends, interest payments, and royalty payments.

● (1420)

We find that the maximum withholding rate on dividends and interest payments is fixed at 15 per cent for all three countries involved, namely, Belgium, France and Israel. The maximum withholding tax permissible on royalties is 10 per cent in the case of Belgium and France, and 15 per cent in the case of Israel; and, as heretofore, the copyright on artistic works remains exempt.

Referring back to the tax reform measures of 1971, honourable senators will recall that in the Standing Senate Committee on Banking, Trade and Commerce we dealt at great length with two items which were new concepts to our tax system, namely, capital gains, and what is called FAPI, or foreign accrual property income. Those two concepts made these conventions necessary. In addition, honourable senators will recall that effective January 1 of this year it was provided that the withholding tax on dividends would be increased to 25 per cent from 15 per cent.

When one considers the complications inherent in operating under the old conventions with a new tax act, and the changes already in effect in our own tax system, one can understand the tremendous sense of urgency which must pervade the Department of Finance in getting these conventions negotiated and into law.

With regard to capital gains, I can only say that the agreements negotiated recognize the Canadian tax positions and state that capital gains may be levied by the host country on dispositions of real estate, business assets and shares in real estate companies.

This, of course, reaffirms the old conflict-of-law concept, namely, the distinction between movable and immovable property, stipulating generally that immovable property only may be subject to capital gains tax in its country of residence or domicile.

The FAPI rules and the withholding tax rates are met and set out in the conventions by way of fixing new rates for the latter and by reference to the provisions regarding the avoidance of double taxation in the case of the former.

The prohibition against discrimination is carried forward in these conventions. However, it is interesting to note that the small business deduction under our act, and the dividends tax credit, both of which are permissible only to Canadian residents, are retained, notwithstanding these non-discriminatory provisions.

Undoubtedly, some people in Canada will be saddened to learn that the two-year tax exemption for salaries paid in one country to a teacher from abroad is abolished and that these persons now fall within the restricted exemption generally afforded and applicable to personal services.

Pensions and annuities remain taxable as heretofore by the state in which they arise.

In probably one of the most important clauses of the bill, the relief from double taxation is dealt with in some detail and along the same line as has heretofore been the case. There is implicit recognition by the contracting states of our concepts under the FAPI rules.

Senator Connolly: Does that mean that there is a tax credit on foreign tax paid?

Senator Lang: That is correct. In other words, heretofore the accruing property income would be received as a dividend tax free; it will now be taxable, but the tax imposed by the foreign jurisdiction on that income will fall within the section providing for the relief of double taxation.

Generally speaking, as honourable senators are aware, each country being a party to these agreements agrees to allow a deduction from its tax in respect of tax imposed in foreign jurisdictions on the same income. That, of course, is the basic reason for all international tax conventions.

In conclusion, I should like to take this opportunity to congratulate the Canadian negotiating teams which worked on these agreements. In order to have negotiated them they presumably had to explain the 1971 amendments to our Income Tax Act to their foreign counterparts in some detail. To date, the ability to do just that seems to have escaped some of our most competent practitioners, including lawyers, chartered accountants, and even officials of the Department of National Revenue. I can only admire the extraordinary facility which must exist on the part of our negotiating teams, and I extend to them our congratulations.

As I mentioned previously, it is my intention, should this bill receive second reading, to move that it be referred to the Banking, Trade and Commerce Committee, at which time honourable senators will have an opportunity to question expert witnesses on the details of these conventions, and inquire into the way in which it is expected that these rather complicated and elaborate formulae are going to work. In the meantime, I would commend this bill to the most favourable consideration of the house.

● (1430)

On motion of Senator Grosart, debate adjourned.

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—MOTION FOR ADOPTION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the report of the Standing Senate Committee on Internal Economy, Budgets and Administration, which was presented yesterday.

Senator Laird moved the adoption of the report.

He said: Honourable senators, I feel I owe the Senate an explanation of the disposition made of the matter referred to us, which you will see in the report that was distributed last night, and, of course, in the suggestion made in the regulations proposed in the motion by Senator Godfrey, in the main involving doubling the monetary penalty for absence beyond 21 days in any one session.

Perhaps honourable senators will not need me to remind them that the only two excuses for absence beyond 21 days are sickness, certified by a doctor's certificate, and absence on public or official business.

This matter was thoroughly discussed in committee, and has been, I may say, unofficially discussed over perhaps a period of a year, both in and out of the committee. So, a lot of consideration has been given to the problem involved.

On the day on which the committee dealt with the matter, there was practically no other business and so we devoted ourselves to it almost exclusively. I should perhaps point out that there was full attendance, although I can say there always seems to be a full attendance in that committee.

After the presentation by Senator Godfrey and others, and a very thorough discussion of what should be done about the matter, the committee decided that the increase in monetary penalty was not getting at the root of the matter, in the sense that it would probably only encourage the improper use of the excuse of being absent on public or official business.

In order to get at the root of the matter, the committee, after much consideration, finally decided that the right way to deal with the problem of inexcusable absence was to provide what you see in paragraph two of the report now before you—which can be found in both the *Minutes of Proceedings* and what was distributed last night—namely, that when an honourable senator certifies that he is absent on public or official business he should be obliged to state the nature of that business, where it was done and the

details, which would enable a judgment to be made whether or not it was public or official business.

I also remind honourable senators that over a year ago, I sent to every member of the Senate a photocopy of a letter of opinion by our then Law Clerk, Mr. Hopkins, in which he delineated what in his opinion was public or official business, but which I imagine many of you may have filed in a wastepaper basket or some other inaccessible spot. If you want to take another look at it to remind yourself of what it contains, I assure you that a copy is available through Mr. Dean or myself.

The third and final matter which appears in the third paragraph of this short and succinct report is that where there is a doubt, the Internal Economy Committee will review the reasons given. As a matter of practice, where there is no doubt, obviously we are not going to take time to review the matter, but in the normal course we will write to Mr. Dean and he will undoubtedly, once a month or thereabouts, place before us anything about which he has doubt.

Frankly, the whole idea is to remove from a civil servant the responsibility of deciding the issue, and place it precisely where it belongs—on the shoulders of the committee, which is composed of 20 senators and is ultimately responsible for so many things that happen around the Senate in the course of its operation.

Very shortly, this is the reason for our having taken the attitude we have. Of course, if any honourable senator wishes to ask questions of me I shall be pleased to try to answer them. I would express the hope that the debate will not end today because, after all, it is a rather important matter.

Senator Lafond: Honourable senators, ever since I have been a member of the Senate I have wondered where this particular subject belonged. Now that I have been told I wish to make a few remarks at this time.

I apologize for not having checked the wording of the writ summoning us to the Senate, but as I recall it it commands us to attend the Senate as and when called. The determination of whether or not senators have been attending has been left to the administration of the Senate. It has been a fairly simple matter—either we have been in the chamber at a certain time or we have not. It is now proposed that in the final analysis this determination will be made by the committee. I have no objection to that. However, one point which, to my knowledge, has never been debated but which has been discussed by some of us, is whether attending a meeting of a Senate committee or fulfilling a mandate given us by the Senate to represent this chamber at a conference as part of a delegation, is in fact attending the Senate.

There have been occasions, as was the case last evening, when there is a very brief sitting of the Senate, and when an honourable senator may have attended two or three committee meetings during the course of the day. He may have spent four or five hours at committee meetings, and for some reason or other is unable to be present in the chamber, and in that case the onus is on him to explain to the administration or to the committee the reason for his absence. At the same time, a senator's attendance at a committee meeting is a matter of record. The mandate given a senator by the Senate is to represent the Senate here or elsewhere, and when he does so he is officially on Senate business. It is my belief that in such circumstances the onus should not be on the senator to justify his absence from the chamber.

● (1440)

I am not moving or proposing any amendment to the report but I do suggest to the chairman of the committee that the committee should address itself to this point at an early opportunity, and report back to the house.

On motion of Senator Côté, debate adjourned.

FOREIGN AFFAIRS

FINAL ACT OF HELSINKI CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE—DEBATE CONCLUDED

On the order:

> Resuming the debate on the inquiry of the Honourable Senator Forsey calling the attention of the Senate to the Final Act of the Helsinki Conference on Security and Co-operation in Europe—(*Honourable Senator Petten*).

Senator Petten: Honourable senators, when I adjourned this item it was my understanding that there were other senators who wished to speak. As no honourable senator has indicated his intention to speak we could, in my opinion, now consider this matter debated.

Hon. Senators: Agreed.

The Hon. the Speaker: As no other honourable senator wishes to participate in this debate, this inquiry is considered as having been debated.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, before I move that the Senate do adjourn during pleasure to reasssemble at the call of the bell at approximately 5.45 p.m. for royal assent, I should like to announce that when the Senate rises the Standing Senate Committee on Banking, Trade and Commerce will meet in room 256-S to continue its study of problems in the Canadian textile industry.

Senator Flynn: And what of the Standing Senate Committee on Legal and Constitutional Affairs?

Senator Langlois: Notices have already been sent out stating that the Standing Senate Committee on Legal and Constitutional Affairs is also meeting this afternoon to consider the amendments to the criminal law.

The Senate adjourned during pleasure.

At 5.45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the

Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk Assistant.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills.

An Act respecting the stabilization of net proceeds from the production and sale of western grain and to amend certain statutes in consequence thereof.

An Act to repeal An Act respecting the Halifax Relief Commission and to authorize the continuation of pensions, grants or allowances paid by the Halifax Relief Commission.

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-58, to amend the Income Tax Act.

Bill read first time.

Senator Petten moved that the bill be placed on the Orders of the Day for second reading on Tuesday next.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, February 26, 1976

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

Prayers.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that messages had been received from the House of Commons to acquaint the Senate that the names of Messrs. Collenette and Marceau had been substituted for those of Messrs. Blair and Francis on the list of members appointed to serve on the Special Joint Committee on Employer-Employee Relations in the Public Service.

SIXTH REPORT OF SPECIAL JOINT COMMITTEE TABLED AND PRINTED AS AN APPENDIX

Senator Goldenberg: Honourable senators, on behalf of Senator Buckwold, I have the honour to table the sixth report of the Special Joint Committee of the Senate and of the House of Commons on Employer-Employee Relations in the Public Service. I would ask that the report be printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report, see p. 1799.*)

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, March 2, 1976, at 8 o'clock in the evening.

Before the question is put I should like to give the usual brief outline of what we can expect to have before us next week, in both the Senate and committees.

On Tuesday afternoon at 2.30 the Standing Senate Committee on Legal and Constitutional Affairs will meet to continue its examination of Bill C-71, the Criminal Law Amendment bill, and at 3.30 there will be a meeting of the Special Joint Committee on the National Capital Region.

On Wednesday the Standing Senate Committee on Banking, Trade and Commerce will meet to hear further witnesses on Canadian textile problems, and the Special Senate Committee on Science Policy will meet when the Senate rises.

The Standing Senate Committee on Legal and Constitutional Affairs will meet at 9.30 on Thursday morning to continue its study of Bill C-71, the Criminal Law Amendment bill, and at 10 o'clock the Standing Senate Committee on Health, Welfare and Science will continue its study concerning the feasibility of the establishment of a special committee of the Senate to inquire into crime and violence in contemporary Canadian society. A number of witnesses will appear.

In the Senate on Tuesday evening we will continue the debate on second reading of Bill S-32 to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel, if that debate is not concluded today. Bill C-58, to amend the Income Tax Act, which had first reading in the Senate yesterday, is on the Order Paper for Tuesday next, when Senator Davey will move second reading. I have been informed that Bill C-85, respecting immigration security, introduced in the House of Commons yesterday, is expected to pass that house today and come to the Senate before we meet next week.

In addition to the foregoing we will probably have one or two other bills from the House of Commons.

Motion agreed to.

● (1410)

INCOME TAX CONVENTIONS BILL

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Lang for second reading of Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel.

Hon. Allister Grosart: Honourable senators, my first pleasant duty is to compliment Senator Lang, the sponsor of this bill, on the excellent presentation he gave us. I do this particularly with respect to the detail with which he examined specifically the double taxation aspects covered by this bill. He said that he did not intend to make a "formidable" speech, although he did comment that the bill as presented to us is formidable in appearance. I would say he did make a formidable speech, certainly formidable in substance; at least, it so impressed me when I came to examine the speech and the bill.

As far as the bill itself is concerned, other than the parts which detail the actual conventions, it is short, consisting of only 12 clauses. However, it increases to 77 pages as a result of setting out in detail the conventions with France, Belgium and Israel for the avoidance of double taxation between those countries and ourselves. In his opening remarks Senator Lang referred to "16 other countries," saying that at the time the tax reform legislation—as I shall refer to it for the sake of brevity—went into effect, on

January 1, 1972, we had conventions of this nature with 16 other countries. If my information is correct, those 16 countries did not include the three countries covered by this bill. Up to that time, starting as Senator Lang said, immediately after World War II, we had concluded conventions with (in alphabetical order) Australia, Denmark, Finland, France, Germany, Ireland, Jamaica, Japan, the Netherlands, New Zealand, Norway, South Africa, Sweden, Trinidad and Tobago, the United Kingdom, and the United States.

I shall be posing some questions to Senator Lang, not in any way critical of his presentation but because, as this bill is being initiated in the Senate, our comments will probably be looked at rather carefully by some in the other place. As a layman, there are questions that I should like to have answered. I hope that Senator Lang will find it possible to answer them when he closes the debate, rather than waiting to have the questions raised in committee, in view of the fact that, following his suggestion, this bill will be referred to the Standing Senate Committee on Banking, Trade and Commerce rather than to the Standing Senate Committee on Foreign Affairs. I might say that I have no objection to that, for the reasons stated by Senator Lang, namely, the very great expertise of the Standing Senate Committee on Banking, Trade and Commerce in the field of taxation, including double taxation. On the other hand, I hope that it will not be a precedent to send international treaties, conventions and agreements to committees other than the Standing Senate Committee on Foreign Affairs, unless there is a particular reason for so doing as there is, I would agree, in this case. I say that because I hope to indicate that this bill raises some questions which go over a much wider range than taxation and which involve considerations of many other treaties, agreements and conventions into which Canada has entered and, no doubt, will enter in the future.

Reverting to my question about the conventions we had with 16 nations in 1972, do the three that we have now entered into fall within that list? Are they renegotiated conventions, or are they new conventions?

Secondly, if we have had, or now have, conventions with 16 or 19 countries, what is the situation of a Canadian taxpayer in respect of those countries with which we do not have conventions for the avoidance of double taxation?

I would also like to know if it is the intention to revise or renegotiate the 16 conventions I have listed, all of which are dated prior to 1972 when the Income Tax Reform Act came into effect. As Senator Lang noted, the new act is an important component of particular provisions in these conventions which are covered by the bill now before us.

I would also ask: What is the Canadian taxpayer's situation in respect of avoidance of double taxation in all other countries of the world? Senator Lang said that we would be moving on to negotiate conventions of this kind with other countries. What is the situation of the Canadian taxpayer in the absence of such a convention?

Senator Lang said that these three were the first to be "successfully negotiated" since 1972. So I ask: Is it our intention to renegotiate existing conventions?

The conventions themselves are in Parts I, II and III and, as Senator Lang said, they are "almost" in the same terms.

[Senator Grosart.]

He indicated one exception—the difference in the royalty withholding tax in respect of Israel, where I think it is 15 per cent compared with 10 per cent in the others. I have looked through the conventions, but did not note any other major differences. Perhaps the sponsor will indicate whether there are other important differences as between the provisions of the three conventions.

I come now to another statement made by Senator Lang. Again, I am not criticizing, but merely asking for an answer on the assumption that there is a good answer. While dealing with the withholding tax, which refers to dividends, interest payments and royalties, he said:

> We find that the maximum withholding rate on dividends and interest payments is fixed at 15 per cent for all three countries involved... The maximum withholding tax permissible on royalties is 10 per cent in the case of Belgium and France, and 15 per cent in the case of Israel; and, as heretofore, the copyright on artistic works remains exempt.

My first question is: What exactly is meant by the statement that the copyright on "artistic works" is exempt? I ask that because it is my information that withholding tax is required in Canada on certain copyright payments. I am not quite sure what the phrase "artistic works" means. It is sometimes taken to mean only the graphic arts, but in the broader sense it could refer to the printed word, to music, and so on. I merely ask for clarification there.

Again I ask for clarification of the subsequent statement:

> In addition, honourable senators will recall that effective January 1 of this year it was provided that the withholding tax on dividends would be increased to 25 per cent from 15 per cent.

That seems to be at variance with the other statement that the maximum withholding rate on dividends and interest payments is fixed at 15 per cent. Perhaps we could have an explanation of that.

I come now to the discrimination clause in the bill. Senators Lang's comment was as follows:

● (1420)

> The prohibition against discrimination is carried forward in these conventions. However, it is interesting to note that the small business deduction under our act, and the dividends tax credit, both of which are permissible only to Canadian residents, are retained, notwithstanding these non-discriminatory provisions.

I am wondering whether this is a case where the actual provisions of the act are not in keeping with the undertakings we have made in the discriminating clauses of the covenants.

Turning to the bill itself, I note that clause 5(3) reads:

> The Minister of National Revenue may make such regulations as are necessary for the purposes of carrying out the Convention or for giving effect to any of the provisions thereof.

I am happy to see the use of the words "are necessary." In previous bills, quite often the phrase was "which the minister deems necessary." As I have said on other occasions, the use of the phrase "which the minister deems necessary" would seem to remove the whole matter from the

courts. In this case, the minister would have to defend any action he took by way of regulations. He would have to prove that such regulations *are* necessary.

I come now to a statement in the bill itself, a statement which I find unusual and, perhaps, extraordinary. The statement in question can be found in several places in the bill and the conventions. I will read it from clause 2(2):

> In the event of any inconsistency between the provisions of this Part, or the Convention, and the provisions of any other law, the provisions of this Part and the Convention prevail to the extent of the inconsistency.

This seems to raise the question as to whether Parliament is being asked, through this bill, which will become an act of the Parliament of Canada, to override provincial legislation if that provincial legislation is within the jurisdiction given to the provinces exclusively under the British North America Act. This, to me, is a very important question. In the past the federal government has, by and large, avoided getting itself into any position where it could be suggested that it is taking the position that an international treaty entered into by Canada would override, *per se*, provincial legislation.

Perhaps there is some other explanation for that statement. It may well be that it is intended to refer only to other federal legislation. But it states clearly:

> In the event of any inconsistency between the provisions of this Part, or the Convention, and the provisions of any other law, the provisions of this Part and the Convention prevail to the extent of the inconsistency.

I would point out that there is a long history of resistance to this attitude, if it is an attitude of the federal government. As I said a moment ago, the federal government has not generally taken this particular position over the years.

Some honourable senators will remember a famous case involving this question. Mr. Bennett, when he was Prime Minister, towards the end of his period of office, I think in 1935, attempted to ratify, by action of the Parliament of Canada, certain provisions of conventions of the International Labour Organization. The provinces objected because in their view the subject matter of these conventions was within the exclusive jurisdiction of the provinces. The matter finally went to the Judicial Committee of the Privy Council, and Lord Atkin, in giving his decision, made the very clear statement that the federal government "could not, merely by making promises to foreign countries, clothe itself with legislative authority inconsistent with the constitution which gave it birth."

After that the Canadian government reverted to its former practice of avoiding any attempt to ratify or implement conventions of the International Labour Organization where the subject matter was within the jurisdiction of the provinces. In fact, up to recent years—I have not checked the most recent years—of some 120 conventions at which Canada was a party, Canada did not ratify more than 20, on the ground that Canadian federal action would infringe on the rights of provinces. At that time the Department of External Affairs issued an official statement which said:

> Canada is a federal country and the fact that most labour conventions are wholly or partly under provincial jurisdiction has placed obstacles in the way of the federal government, up to the present, ratifying many of the 110 conventions.

Perhaps honourable senators will bear with me if I cite a few of the instances where this principle seems to have been maintained, contrary to what I read as the intention of clause 2(2) and other similar statements in the bill before us. In 1947 there was a resolution of the United Nations asking all members to agree to place in the curricula of the schools a course on the United Nations itself. Canada specifically refused to give that undertaking. The Canadian delegate said:

> In Canada, under our system of confederation, there is a federal government and nine provincial legislative assemblies.

As there were at that time.

> By our Constitution, the government of each province has complete and exclusive jurisdiction and control over educational matters.
>
> Therefore, everyone will understand that my government could not, if the proposal is adopted, take measures to encourage the teaching of the United Nations charter, et cetera, in the schools of Canada.

Much the same thing developed in 1948 at the time of the Universal Declaration of Human Rights, where again it was stated officially on behalf of Canada:

> Canada does not intend to invade other rights which are also important to the people of Canada, and by this I mean the rights of the provinces under our federal Constitution.

There are many other instances, coming almost up to date. I will cite only one more, in case it should be said that the present bill is a special case, because it deals with taxation. Taxation was involved in the matter of the International Civil Aviation Organization, where the federal government undertook that the establishment and the personnel of that authority in Montreal would not be subject to federal tax. That was its undertaking. The Province of Quebec said it would impose taxes, and it refused temporarily to agree to give the personnel diplomatic immunity. The matter was finally settled amicably. In the meantime, the federal government, to get itself out of an embarrassing situation, undertook to pay the taxes on behalf of this international organization. As I say, it was settled amicably because Quebec finally decided to grant the privileges and immunity. In this case, even the matter of succession duties—which are, in effect, taxes—was raised.

● (1430)

I cite that to illustrate that the principle of the federal government's not undertaking in any way to invade the exclusive legislative jurisdiction areas of the provinces seems to be contradicted in this bill. Perhaps Senator Lang, in his great wisdom and knowledge of the law, will tell me that that was not the intention, and that it is not the effect.

I make these remarks on this particular part of the bill, not to suggest for one minute that I am a great fighter for provincial rights. In this particular area, it is almost to the

contrary. However, I have a feeling that this is an area which should be settled amicably between the federal government and the provinces—if anything can be settled amicably between them—for the simple reason that at the present time this conflict of jurisdiction is greatly endangering some aspects of our international relations.

Those of us who attended the meetings of the Canada-United States Interparliamentary Group a month ago, upon which Senator Macnaughton will be reporting shortly, ran up against this problem. When we were there a draft treaty had been submitted to both governments. It was initialled by the senior officials of both governments as a suggested treaty which would come into effect in respect to the Mackenzie Valley gas pipeline, if that was the decision of both countries. Our American friends, citing recent legislation in Saskatchewan with respect to potash, asked, "What is the sense of making a treaty with you? You cannot enforce it against provincial action." They mentioned specifically that part of the pipeline that would go through one of the Canadian provinces might become subject to exorbitant or discriminative taxes. They asked us—and we could not give a definite answer, although we tried to—"What is the use of making an international agreement with you, if you cannot undertake to implement it?"

The United States is not quite in the same position because their international treaties automatically, without further implementation, become the domestic law of the land, which is not so in Canada, or any country still under the Westminster tradition. I therefore say, in contrast to former comments, that this is a matter which should be taken up and considered very seriously by the federal government. I do not know what the answer is.

We were asked, if the United States required assurances in respect to any investment they make or any rights of passage they might want, whether the federal government would undertake to say it would exercise the power of disallowance. My answer was, "If I were an American, I would try it, but I do not think you would have very much of a chance."

There are other powers, of course, available to the federal government to override provincial legislation which would run contrary to a treaty obligation taken by Canada.

As I said at the beginning, a bill such as this, even though the major subject may be double taxation, has implications beyond those that might interest the Banking, Trade and Commerce Committee. I repeat that I hope the practice will not be followed of referring all treaties, conventions and agreements to committees that might be interested in the subject matter. The fact is that every one of these treaties or conventions will have subject matter dealt with by some specific committee. Under rule 67(1)(g) the first group of matters to be referred to the Foreign Affairs Committee includes treaties and conventions, and so on. However, I am not insisting on it in this case, because if ever there was an excellent case for an exception this bill is it.

In conclusion, therefore, I would ask the senator learned in the law who sponsored the bill to let us know before we vote on it whether there is any possibility of matters within the exclusive jurisdiction of the provincial legislatures coming into conflict with the undertakings made in this bill, and whether that is any part of the reason why we seem to be asserting the authority, which I cited, that this bill overrides any inconsistency between this and any other legislation—I believe that is the phrase that is used. I believe this is an important consideration arising out of this bill, and I am quite sure we shall have satisfactory answers in due course from Senator Lang.

Senator Lang: Honourable senators, I thank my honourable friend for his contribution to this debate, and congratulate him on the obvious knowledge he displays in asking his questions.

Senator Flynn: Are you closing the debate?

The Hon. the Speaker: Is the Honourable Senator Lang answering a question, or is he intending to make his closing speech?

Senator Lang: I shall reserve my answer, if any other honourable senator wishes to speak.

Senator Burchill: Honourable senator, before Senator Lang closes the debate may I make one comment? I was a member of the Banking, Trade and Commerce Committee when it was considering the Income Tax Act. I felt at the time that it was a most complicated and difficult matter. In his remarks yesterday Senator Lang congratulated the negotiators of these conventions because of the fact that Canada had a complicated taxation measure. I just wish to add that I think Canada has the most complicated, difficult and extraordinary Income Tax Act of any country in the world.

Hon. Senators: Hear, hear.

Hon. Daniel A. Lang: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Lang speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Lang: If I may, honourable senators, I will close the debate by attempting to answer my honourable friend, Senator Grosart. Inadequate as my resources are to answer him with any degree of thoroughness or completeness, I hope my remarks will be of some assistance to him and others on the other side.

Working in reverse order, I would say that Senator Grosart has raised one of the most difficult questions possible in constitutional law by questioning the federal treaty-making power as it is exercised under this piece of legislation. I do not profess to have any expertise in this area, but I am as appreciative of the problems inherent in it as he is himself.

I would make just one observation, not as a constitutional expert or even as a lawyer but simply as a layman, namely, that inasmuch as these treaties themselves deal with taxation matters exclusively under the jurisdiction of the federal government, there can be little chance that they would infringe upon matters exclusively within the jurisdiction of the provinces. If there were such interference, it would only be by indirection, and probably through the effect of the interrelationship of our federal income tax system with the income tax systems of the various provinces. I trust that my honourable friend will raise that question when and if this bill is referred to

committee. At that time I would hope that we might have the benefit of the presence of some of our colleagues, such as Senator Forsey, who are not members of the committee.

● (1440)

Senator Flynn: Why?

Senator Lang: Senator Grosart questioned my statement with respect to the inclusion in the treaty of non-discriminatory provisions, and my reference to small business deductions under the Income Tax Act as they are affected by these non-discriminatory provisions. As honourable senators are aware, the small business deduction and the lower rate of tax on dividends from Canadian corporations is a benefit conferred under the Income Tax Act—if I can use the word "benefit" in referring to anything under that statute. It is a lessening of a tax load which is applicable only to Canadian residents. In other words, it discriminates against non-Canadian residents who might be taxable in Canada. In these treaties it is also specifically provided that these provisions will hold, notwithstanding the agreement against discrimination.

Senator Flynn: Would you repeat that?

Senator Lang: I think I had better.

The contracting parties here covenant that they will not discriminate against the nationals of the other contracting parties in matters of taxation. Having made that covenant there is a proviso: notwithstanding that we in Canada will discriminate against your nationals in connection with our application of the low rate of tax on dividends from Canadian corporations and the low rate of tax on small business corporations. I hope I have clarified my position.

Senator Lamontagne: It shows we are good negotiators.

Senator Lang: Speaking of good negotiators, I will pass for a moment to the reference I made to the increase in our withholding tax effective as of January 1 of this year.

Honourable senators will recall that in the tax reform measure that came into effect on January 1, 1972, there was a provision increasing the withholding tax to 25 per cent effective January 1, 1976. That rate of tax, now having come into effect, will be reduced to the 15 per cent provided for in these conventions, once this bill becomes law.

There will be some pretty unhappy nationals of other countries who are going to be subjected to that 25 per cent tax, until we have similar conventions with those countries. I suggest that this may be a very clever way of giving ourselves a good bargaining lever in advance, by raising our withholding tax rate and then bargaining for a convention, with the opportunity of offering a lower rate under the convention. I am not suggesting that that was the motivation for imposing this increased rate by the act of January 1, 1972, but it certainly would work to the advantage of Canadian negotiators at this stage of the game.

The honourable senator raised the question as to what is included in the term "artistic works." Generally speaking, historically there has been no subjection to withholding tax, in countries with which we held a convention, on copyrights payable on artistic works other than motion picture films and films or videotapes for television use. That information is from the notes supplied to me by the particular department of government. Generally speaking, therefore, the withholding tax would not be attracted by copyright payments such as royalties on books and royalties on music, but such things as motion picture films and videotapes for television use would be excluded from this provision.

I think the honourable senator must bear in mind, when he is considering this problem—and I know how knowledgeable he is in matters of copyright, having been involved with copyright for many years—that the withholding tax exemption only flows if there is no "permanent establishment" in the country whence the royalties are arising. If such a permanent establishment does exist, representative of the copyright owner, then, of course, when those royalties are repatriated they are subject to the normal withholding tax, and they come back either by way of dividends or interest, or otherwise.

As to the differences between the various conventions covered by this bill, I can only state that the 5 per cent difference between the withholding tax on royalties applying to Israel and that applying to France and Belgium is in fact the only major or substantive distinction. There are many minor distinctions, because in the case of each convention the local laws affected by the convention in each country are designated and set out, and the definitions of "tax" under each convention are different, as they encompass different tax authorities within Belgium, Israel and France respectively. To the best of my knowledge, apart from the mechanical differences, which are self-evidently necessary, there are no other differences of a substantive nature.

The honourable senator asked me whether we had 16 or 19 treaties. Although I have not done the research I am sure he has in respect of the specific countries with which we had treaties at the time of the introduction of the Tax Reform Act, I will confess that I relied for my information on the notes provided me by a department of government. If he can get an answer that will satisfy him from a quotation from these notes, then he may have more ingenuity than I seem to possess. My note says: "At the present time Canada has 16 treaties in force which have to be revised (the French one is an example of this) as a result of tax reform."

I take it from those words that 16 is the total, and that these three are part of those 16. But my supposition arises only from the wording of that paragraph which I just read. As to the balance, which I assume to be 13, conventions have already been negotiated and concluded with quite a few of those other countries, but they have not yet come to us for ratification. I am not sure of the number that are ready to be proceeded with now, but I believe they include treaties with the United Kingdom and four or five other countries. Eventually all 18 treaties will be renegotiated as opposed to being negotiated *de novo*. Thereafter, it is the intention of the government to approach upwards of another 24 countries with the invitation to conclude a treaty on these matters.

● (1450)

I was asked a question with respect to the situation today affecting those countries with which we had a treaty as of January 1, 1972, and with which we do not have a renegotiated treaty. The old treaty remains in effect during this period, and it is subject to the transitional rules set out in the Income Tax Act of 1971. Under those

transitional rules the Governor in Council has extensive powers to provide for the changing situation arising under our treaty obligations during the interim period until a new treaty is concluded.

So far as the extent of the power to regulate contained in those transitional rules is concerned, I am unable to comment at the moment, but I think that the first real problem that the administration will be faced with arises from this increase in withholding tax to 25 per cent as of January 1. That is statutory, and the effect of it cannot be obviated by regulation under transitional rules. I presume the government thought at one time that as of January 1, 1976 all 16 treaties would have been renegotiated. In view of the complexity which Senator Burchill referred to, I am myself not at all surprised that there has been a time overrun, and it is certainly to be expected that the time overrun will last long into the future.

If I am correct in the note I made during the course of his speech, Senator Grosart asked a question concerning the situation as between Canada and other countries where no convention is in effect. In many ways, I think the answer is almost obvious—that country will impose taxes on Canadian residents, and it will impose a withholding tax or any other type of tax which its sovereignty permits it to impose, and without regard to the effects on Canada or Canadians. In like manner, we will be doing the same thing.

This lack of reciprocity could be quite damaging. I can conceive of its being seriously damaging, particularly in underdeveloped countries where we may have a large multinational operating for the first time, or where we may otherwise have first taken a position in their economy without such reciprocity existing. Generally speaking, though, apart from the potential for concern in that regard, the conventions that do exist cover our major trading and commercial partners in the western world. I would presume that a very large percentage of our international commercial transactions are with those countries with whom we do have conventions.

I hope, honourable senators, that I may have given you some adequacy of response to the questions put to me. I trust that the questioning of this bill will not cease here, but that it will carry on in committee.

Senator Flynn: Honourable senators, may I ask a question of Senator Lang? He mentioned there was no problem with respect to the power of the federal government to enter into this type of convention since the taxation system of the federal government is completely within its jurisdiction. There is no doubt about that, but how does this affect the provinces which have their own income tax laws? I am thinking especially of Quebec, for instance. Does the convention include these provinces or not, and is there a difference as between a Canadian resident residing in Nova Scotia and a Canadian resident residing in Quebec?

Senator Lang: I am afraid, honourable senators, I am not going to muster the temerity to answer that question. I have read many learned and complicated articles in this area of concern, and I think one can get as many opinions as there are people giving the opinions. I think if another opinion is to be sought, it might well be sought elsewhere than from me in this chamber.

Senator Flynn: All right, I won't insist.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Lang moved that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

The Senate adjourned until Tuesday, March 2, at 8 p.m.

APPENDIX

(*See p. 1793*)

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SIXTH REPORT OF COMMITTEE

Thursday, February 26, 1976.

The Special Joint Committee of the Senate and of the House of Commons on Employer-Employee Relations in the Public Service has the honour to present its sixth report as follows:

In accordance with its Order of Reference of the House of Commons of Tuesday, October 22, 1974 and of the Senate of October 23, 1974 a Special Joint Committee of the Senate and the House of Commons considered Parts I, II and III of the documents entitled *Employer-Employee Relations in the Public Service of Canada*, prepared by Mr. Jacob Finkelman, Q.C., Chairman of the Public Service Staff Relations Board. This Joint Committee was duly organized Wednesday, November 13, 1974 and held forty public meetings between that date and Thursday, June 19, 1975. Thirty-one briefs, including two reports by Mr. Finkelman entitled *Supplementary Observations and Recommendations*, have been received and considered by your Committee. A variety of interested parties have participated, including: bargaining agents representing employees in the Public Service of Canada; unions representing views outside the Public Service of Canada; the Treasury Board Secretariat representing the Government as employer; employer groups in the private sector; the Chairman of the Public Service Staff Relations Board and the Chairman of the Public Service Commission; personnel and labour relations specialists; university professors; and interested individuals.

THE INTERIM REPORT

In the course of these hearings, your Committee was persuaded by the evidence of several witnesses, and especially by that of Mr. Finkelman, that the Public Service Staff Relations Board was not properly constituted to carry the burden of the various responsibilities placed on it by the Act and that the capacity of the Public Service Staff Relations Board to handle its work load effectively and expeditiously was seriously constrained by its part-time membership. To mitigate these pressing administrative and operational difficulties, your Committee prepared an Interim Report and in it recommended the consolidation of the several functions of the Public Service Staff Relations Board. Your Committee recommended as well that members of the Public Service Staff Relations Board be able to sit in panels, and that sufficient full-time members be appointed to enable the Public Service Staff Relations Board to handle the matters referred to it with dispatch. This Report was laid before the Senate and before the House of Commons on May 29, 1975.

A Bill (Bill C-70), was given first reading on July 14 and was referred to your Committee for comments and suggestions. Minor technical amendments, unanimously supported by the Special Joint Committee, were made to the Bill and Bill C-70 was approved by Parliament on July 21, 1975.

Your Committee continued to hear representations until July 16, 1975 when it began the final evaluation of the evidence which had been placed before it.

Altogether 31 persons or organizations made representations and 49 persons appeared before the Committee and were questioned by members. The names of persons appearing before the Committee and of persons and organizations submitting briefs are listed in Appendix A.

SCOPE AND LIMITATIONS OF THE COMMITTEE'S INVESTIGATION

The task facing your Committee was a formidable one. Employer-employee relations in the Public Service of Canada are governed by several different statutes, principally the Public Service Staff Relations Act, the Public Service Employment Act and the Financial Administration Act. These statutes provide for two independent regulatory agencies in the area of Public Service employer-employee relations: the Public Service Commission which derives its authority and responsibility from the Public Service Employment Act; and the Public Service Staff Relations Board which derives its authority from the Public Service Staff Relations Act. Although both agencies are concerned with the rights of employees as individuals, the Public Service Staff Relations Board has the additional concern of the relationship of bargaining agents and the employers in collective bargaining. For most employees in the Public Service, the Treasury Board (which derives its authority from the Financial Administration Act) is the employer, working with and through deputy heads on matters relating to personnel management. For other employees, the statutory employer is the agency in which they are employed and these agencies, the "separate employers", also exercise employer status and have responsibilities under the Public Service Staff Relations Act.

From the point of view of employees, and also to a considerable extent from that of the bargaining agents, these statutory divisions of authority and responsibility raise awkward barriers against the logical processes of personnel administration in the Public Service and against the resolution of problems facing individuals and groups of employees. Despite the limitations on the scope of your Committee's inquiry which were imposed by its terms of reference, many witnesses, especially those representing employee interests, urged us to come to grips with any aspect of the total system which required improvement and change.

The problem is perhaps best understood from an historical perspective. From 1918 until 1967, personnel management in the Public Service was based on the Civil Service

Act and administered by an independent agency, the Civil Service Commission. In 1967, following a comprehensive study and report by the Preparatory Committee on Collective Bargaining, and detailed consideration by a Special Joint Committee of the Senate and House of Commons, Parliament approved a new statute, the Public Service Staff Relations Act, to accommodate the added dimension of collective bargaining. The Civil Service Act (now the Public Service Employment Act) underwent major amendments. Significant changes were also made in the Financial Administration Act. Responsibilities which had been vested in the Civil Service Commission for fifty years now passed to the Treasury Board, re-cast as the "general manager" of the Public Service and "the employer" in the collective bargaining relationship. The major responsibility under the Public Service Employment Act became that of "staffing", (recruitment, selection, appointments and appeals) and was entrusted to the Public Service Commission. This rearrangement of responsibilities was seen at the time as providing an acceptable accommodation between those concepts and systems which had proved their worth over many decades and the new attitudes towards the regulation of employer-employee relationship which had gradually spread throughout Canada in the post-war period.

In the words of the *Report of the Preparatory Committee on Collective Bargaining* which was published in July, 1965:

> "When the Industrial Relations and Disputes Investigation Act was passed in 1948, there was no apparent desire on the part of the Public Service employee organizations to have their relationship with the Government regulated by the legislation. Within a few years, it was being argued by some associations that the Public Service should be brought within the ambit of the Act and by others that a system of collective bargaining and arbitration designed specifically for the Public Service would be preferable. By about 1960, the latter view had become clearly dominant.

The formula of accommodation between the old and the new, which was devised in 1965 by the Preparatory Committee, and which led to the present legislative format, is of fundamental importance to the character and quality of employer-employee relationships in the Public Service. Your Committee has had to consider whether it should resist or respond to the request for a re-evaluation of the relationship between the present Public Service Staff Relations Act and the Public Service Employment Act. In reaching our conclusions in this regard, we considered both the terms of reference given to Mr. Finkelman when he undertook his study and the terms of the orders of reference given to us by the Senate and the House of Commons. Both are included in Appendix B of this report.

Guided by these terms of reference, your Committee has heard the views of interested groups and persons on the Finkelman recommendations. This report constitutes our assessments, conclusions and recommendations on the major submissions made to us.

PUBLIC SERVICE EMPLOYMENT ACT

In his first appearance before your Committee, the Chairman of the Public Service Staff Relations Board, Mr. Finkelman, said:

> "Although a number of the bargaining agents urged that I recommend a substantial expansion of their role in regulating appointments to and within the Public Service, I decided that, whatever, the merits of such changes, I had no mandate to undertake policy initiatives that would alter, in any substantial manner, the traditional responsibility of the Public Service Commission for regulation of the merit principle. If in the course of time such an alteration is to be made, the preparation for such a major shift in public policy will need to be much broader based than my investigation."

Your Committee heard representations from bargaining agents for expansion of the scope of collective bargaining into areas now administered by the Public Service Commission. On December 4, 1974, Mr. Carson, Chairman of the Public Service Commission, urged the Special Joint Committee to review the entire Public Service Employment Act rather than only those sections relating to Mr. Finkelman's recommendations. Over the course of the Committee hearings the mood of the bargaining agents, realizing the scope and implications of their demands, changed. The Public Service Alliance of Canada at its appearance before the Special Joint Committee requested the establishment by the Government of a committee to study the Public Service Employment Act and make recommendations within two years.

In May of 1975, the Public Service Commission appeared again before the Committee and supported the altered Alliance view. The Public Service Commission had modified its approach and, in its second submission to the Special Joint Committee, recommended that:

> (a) a review of the Public Service Employment Act and the role of the Commission be undertaken by a special task force; and
>
> (b) immediate amendments to the Public Service Employment Act should be limited in the meantime to necessary technical adjustments.

Your Committee concluded that the comprehensive re-evaluation of personnel management in the Public Service of Canada implicit in a review of the Public Service Employment Act was beyond our scope and resources.

Because of these representations and of the consensus reached as to the need for a comprehensive study of the issues and the alternatives, which must be thoroughly assessed before Parliament can deal with the Public Service Employment Act, your Committee recommends:

1. That a special task force be established to review the Public Service Employment Act and the role of the Commission in personnel management and employer-employee relations in the Public Service; and

2. That the review include an examination of the role assigned the Public Service Commission and its relationship to the Treasury Board Secretariat and the Public Service Staff Relations Board.

3. That the review entail a study of the relationship of the Public Service Commission and the departments and agencies; and consider the development of an audit system for performance accountability with respect to matters delegated to departments and agencies under the Public Service Employment Act.

We are satisfied that Parliament, at the earliest opportunity, should correct certain problems which the Public Service Commission indicated it has encountered in its administration of the Public Service Employment Act, as it now reads.

Your Committee therefore recommends:

4. That because two or three years may elapse before the aforementioned review results in legislative changes, certain revisions to the Public Service Employment Act be made immediately to allow the Public Service Commission to operate efficiently under the present statute and that the Public Service Commission, after consultation with the bargaining agents and the employer, develop proposals for such revisions.

5. That Parliament consider the proposed changes to the Public Service Employment Act as soon as possible, bearing in mind their relationship to changes recommended in the Public Service Staff Relations Act.

COLLECTIVE BARGAINING IN THE PUBLIC SERVICE: FACTS AND FIGURES

The Government of Canada is the largest employer in the country. Though not all government employees are public servants, there were in April, 1975, almost 250,000 public servants represented under the Public Service Staff Relations Act by fourteen different bargaining agents in 104 bargaining units.

According to evidence presented to the Committee, between the introduction of collective bargaining in the Public Service in 1967, and November 30, 1975, there have been 449 collective agreements—73.9% (332) by voluntary agreement; 15.1% (68) following arbitration; 8.6% (39) following conciliation; and 2.4% (11) following a legal strike.

Though Parliament has several times enacted back-to-work legislation for disputes falling under the Canada Labour Code, at no time has such action been necessary for the 11 lawful strikes under the Public Service Staff Relations Act. There have been however more than 50 unlawful strikes, since collective bargaining was introduced to the Public Service of Canada in 1967 and more appropriate means appear to be necessary to curtail unlawful activity. If the record had been different then we might have very well concluded that the assumptions underlying collective bargaining in the Public Service of Canada ought to be changed.

The Public Service Alliance is the largest Public Service union, representing some 165,000 employees. The next largest union is the Canadian Union of Postal Workers which represents 23,000 employees. The Professional Institute of the Public Service has been certified to bargain on behalf of approximately 17,000 employees. Other certified bargaining agents are: the Letter Carriers' Union of Canada, 16,500 employees; the Canadian Postmasters' Association, 8,200 employees; the Association of Postal Officials of Canada, 3,600 employees; Local 2228, International Brotherhood of Electrical Workers, 2,700 employees; the Federal Government Dockyards Trades and Labour Council, 2,600 employees; the Economists, Sociologists and Statisticians Association, 2,300 employees; the Research Council Employees Association, 2,200 employees; the Canadian Air Traffic Control Association, 2,150 employees; the Council of Graphic Arts Unions of the Public Service of Canada, 1,250 employees; the Canadian Merchant Service Guild, 1,000 employees; the Professional Association of Foreign Service Officers, 1,000 employees; and the *Syndicat général du cinéma et de la télévision*, 400 employees. Statistical tables reflecting significant developments in the collective bargaining structures and process from 1968 to 1975 are shown in Appendix C.

THE PUBLIC'S INTEREST IN PUBLIC SERVICE BARGAINING

The aim of collective bargaining is to reconcile the interest of employed persons in improving the terms and conditions of their employment with management's interest in obtaining operational efficiency.

In the Public Service, it is important that this reconciliation be effected in such a way as to ensure that services for which taxes are paid be not interrupted. It is the increasing interruption of such services, sometimes even to the degree of imperilling the public interest that now causes serious concern.

Some witnesses before your Committee argued that it is wrong for public services ever to be disrupted and it is wrong, therefore, for the Government to condone disruption by permitting public servants to strike in any circumstances. Others argued that only when they are allowed to engage in free collective bargaining, including resort to strike, can public servants obtain satisfactory conditions of employment.

The right to strike, however, is not an issue confined to the federal public service. Your Committee estimates that there are well in excess of 2,000,000 persons employed in public services in Canada. Of these, 250,000 in the employ of the Federal Government are subject to the Public Service Staff Relations Act. The rest include persons employed by federal Crown Corporations, provincial governments and Crown Corporations, municipalities, school boards and hospital boards. In varying degree and with certain important exceptions, these employees too have the right to strike, as do employees governed by federal and provincial labour laws in the private sector who provide services which may be considered essential by the public. It is therefore to be assumed that a large proportion of the work-force engaged in providing services which affect the public interest in Canada supports the continuation of the right to a withdrawal of services.

Some who believe the right to strike in the Public Service of Canada should be withdrawn tend to disregard the achievements of the parties since 1967. Apart from the recent actions by certain union leaders, the Public Service unions which have been certified as bargaining agents under the Public Service Staff Relations Act deserve, with few exceptions, public appreciation on several counts.

They have overcome the inherent organizational fragmentation and geographical dispersion of their constituents and brought them together into stable and enduring national bargaining units for the purposes of collective bargaining.

They have written viable constitutions to govern their internal affairs which adopt and preserve within their

organizations the democratic traditions of this country. Despite the immediate climate of the collective bargaining relationships and the tensions generated by disputes, their leaders have generally operated within the law and have endeavoured to restrain those who counselled otherwise. Public Service unions have brought to the negotiating table a respect for rational arguments, institutions and processes producing an approach to settlements good enough to merit study by many other jurisdictions.

There is a need to recognize and give credit as well to those who have represented the employer, both in achieving the structure of relationship which was recommended in the *Report of the Preparatory Committee on Collective Bargaining* and in maintaining day-to-day relationships in departments and agencies, where collective agreements are interpreted and administered.

Considering our terms of reference, the immediate requirements for change, the evidence of the interested parties and the record of collective bargaining in the Public Service of Canada, your Committee concludes that there is much merit in the system created by the legislation enacted in 1967. After all the evidence was heard and debated, Parliament added new dimensions to collective bargaining in Canada. In the future, the assumptions underlying collective bargaining may change but your Committee's mandate and direction focused on finding solutions to today's problems. Therefore, our purpose was to strenghten and improve the collective bargaining process in the Public Service of Canada wherever possible.

It is perhaps appropriate that your Committee's study should have been conducted during the course of the longest strike that has occurred since the collective bargaining in the Public Service became law. We have been obliged to consider very carefully whether Parliament in 1967, in its concern that public servants should not be deprived of rights granted to others, went too far. Experience over the past eight years allows us to examine the consequences of granting the right to strike for the Public Service. Your Committee decided to determine where to draw the line between the rights of public servants and the rights of the public: at what point the public, through the Government and then Parliament, should be prepared to intervene in the collective bargaining process; and, if intervention is appropriate, whether it should be by a continuing statutory prohibition or by an ad hoc response to a particular situation.

Your Committee concluded that where the activities of the parties engaged in collective bargaining do not adversely affect the public interest, the collective bargaining process should be free to operate without government intervention. But when the public interest becomes adversely affected, Government and Parliament should be prepared to intervene.

The assumption upon which Parliament granted the right to strike in the Public Service of Canada in 1967 was that the safety and security of the public were assured. The exception to the right to strike for some "designated" employees made it possible for Parliament to grant that right to most public servants since their services were not essential to the safety or security of the public.

The requirement to ensure that services affecting the safety or security of the public be uninterrupted remains unquestioned. None of the bargaining agents appearing before the Committee disagreed with the concept of the "designated employees"; that is, that certain persons performing duties relating to the safety or security of the public should be denied the right to strike.

Your Committee therefore concludes:

6. That the general principle of collective bargaining law governing the Public Service of Canada is sound and the rights granted should not be withdrawn merely to overcome inconvenience.

7. That the bargaining agents, subject to the conditions of the statute and the recommendations to follow, continue to be able to choose arbitration or conciliation-strike, as the method of dispute resolution.

8. That there is a need for additional procedural and substantive amendments to the law governing the collective bargaining relationship, and more appropriate remedies for unlawful activity.

With respect to the national economic or social impact of a strike by public servants, or indeed by any other group of employees, your Committee has no doubt that where the welfare of the community as a whole is concerned, the right to strike is not sacred and its suspension is the responsibility of the Government and Parliament or the appropriate Legislature.

The continued protection of the national economic or social interest can be provided by statute at the cost of a total denial of some rights now available to persons providing services to the public; or it can be protected by granting a statutory right to strike and imposing on Government and Parliament the responsibility of determining when a strike has so affected the public interest that the right must be suspended.

Your Committee recognizes that the public interest can be adequately protected by Government and Parliament determining when and where the public interest is adversely affected. When Parliament is dissolved, the Governor-in-Council should be similarly empowered.

Your Committee therefore recommends:

9. That when Parliament is dissolved, the Governor-in-Council be empowered to suspend the right to strike, whenever in its opinion a strike is adverse to the public interest.

In order to provide additional mechanisms to facilitate settlements, the Committee examined the techniques available under the Canada Labour Code and endorses the provision enabling the establishment of Inquiry Commissions. Your Committee therefore recommends:

10. That the President of the Privy Council, upon the recommendation of the Public Service Staff Relations Board, acting on his own initiative or upon application, may refer a dispute or difference between employer and employee that exists or is apprehended to exist to an Inquiry Commission for investigation and report to the President of the Privy Council.

DESIGNATED EMPLOYEES

Both Mr. Finkelman, in his report, and the Treasury Board, in its representations to the Committee, proposed

that the definition of designated services should be extended. In some of the representations from organizations outside the public service, suggestions were made which would have broadened the definition to include "essential services". Your Committee feels that the phrase "essential services" is too difficult to define and would lead to the inclusion of most public servants. In other words, the right to strike would be granted to public servants only to be denied by another process. In balance, we conclude that some extension of designated services beyond safety or security is necessary to ensure that "health" be included, and to add a new dimension that of protection of public property.

Your Committee does not believe that it is the desire or in the interest of any employee or bargaining agent to indirectly damage or destroy public property, to jeopardize national treasures, or to expose to risk the outcome of important experiments through the withdrawal of services. The results of such destruction would in some circumstances interfere with a return to work despite a settlement. We accept the assurances of the representatives of the bargaining agents that appeared before us that special arrangements can and will always be made to guarantee protection. We do not doubt the good faith of those making these representations but we believe that the public should have statutory assurance in these areas and that such minimum protection no longer be a subject of bargaining. Your Committee therefore recommends that the law be revised to provide for the designation of employees:

11. To protect members of the public against an imminent threat to their health, where the withdrawal of services would pose such a threat.

12. To ensure the continuation of important experiments, particularly long-term experiments or research where the withdrawal of services would place them in jeopardy.

13. To maintain the necessary physical environment for the security of national treasures.

14. To ensure that temperature of all public buildings does not fall below 5° Celsius. (The maintenance of at 5° Celsius will have no detrimental effect on the employees' strike nor will it provide any assistance to the employer to continue operations.)

Though the bargaining agents all agreed that the concept of designation was valid there was criticism of the number of people designated, the identification of the persons designated and the designation process itself. It was argued that the compilation of the list of designated employees should be left to the parties to negotiate. This view assumes that the prime concern of the parties is to protect the public interest. Experience does not necessarily support this view. Instead, it shows that the public interest tends to become secondary to the primary subject of bargaining terms and conditions of employment. Eight years of experience has shown that the designation process has become integrally related to the negotiation process with all the devices of strategy, advantage, timing, play and counter-play. In some circumstances the employer has inflated its list on the assumption that in subsequent bargaining some designations would be lost. On the other hand, the record also reveals that too often the initial response of bargaining agents to the employer's proposed list of designated employees was to object to every position on the list. In other circumstances, for strategic reasons, bargaining agents have agreed to proposed designations that would otherwise have been unwarranted.

Your Committee deplores these techniques. These manoeuvres have produced a lack of confidence on the part of employees in the integrity of the process. We therefore conclude that the process by which employees are designated under the Act is unsatisfactory.

Under the present legislation, the designation process becomes operative only where the bargaining unit has chosen the conciliation-strike route as the dispute resolution mechanism and the designation has application and effect only during the period in which a legal strike occurs in that cycle of bargaining. Your Committee believes that employees should be designated because they perform duties protecting the public interest and not because of the dispute resolution process chosen; and further that if the duties of a position are designated, the incumbent should be required to perform those duties until a case can be made that justifies the removal of the "designation" status.

Later in this report, the penalties recommended for unlawful activities are set out and distinctions are drawn between designated and non-designated employees. Designated employees or those accessory to preventing designated employees from performing their services should be subject to the appropriate penalties whenever they unlawfully withdraw their services.

After eight years of experience with the designation process, one might reasonably expect the system to have matured and stabilized. On the contrary, we find that there is neither stability nor continuity in the existing processes of designation. In order to improve the designation process and to ensure that the public interest is protected under the collective bargaining process your Committee recommends:

15. That the Public Service Staff Relations Act be amended to require the designation of all employees whose functions involve the provision of services which in accordance with this Act are to be provided without interruption.

16. That the bargaining agents and the employers continue to be required to determine, by agreement, the employees in the bargaining units who are to be designated.

17. That the Public Service Staff Relations Board continue to be empowered to make determinations regarding the appropriateness of a "designation" where the parties cannot reach agreement.

18. That, where necessary, the techniques of examination, mediation and reference to established precedent be employed to resolve disagreements in connection with the determination of designated employees and to assist in what will be initially an extensive task.

19. That permanent lists of designated employees for each bargaining unit be filed with the Public Service Staff Relations Board.

20. That the Public Service Staff Relations Board establish appropriate processes for ensuring that the

lists of positions and incumbents are kept up to date and for dealing with proposed amendments in the lists submitted to it by the employer or the bargaining agents concerned.

21. That the incumbents of the designated positions be informed by the Public Service Staff Relations Board of their obligation under the Act with special reference to the penalties for unlawful activity.

22. That the processes referred to in Recommendation 20 distinguish among proposals which involve a change in incumbent, a new position comparable to a position previously designated, and a position in respect of which the employer cannot rely on a precedent.

PROSECUTION OF OFFENCES UNDER THE ACT

During the course of the hearings and deliberations of this Committee the largest outbreak of unlawful strike activity in the eight-year history of the legislation took place. Between October 1974 and September 1975, the Treasury Board sought consent from the Public Service Staff Relations Board, as required by the provisions of Section 106 of the Act, to prosecute some 2,300 employees in 6 bargaining units for unlawful strike activity before the courts. Approximately 940 of these were alleged to be designated employees. Insofar as we can ascertain, in most cases where consent has been granted, the employer has initiated prosecutions in the courts. The judicial process has proven to be cumbersome and expensive, and the court decisions lacked uniformity.

The present two-stage process with its substantial costs, delays, fragmented administration, absence of precedents, and inconsistent penalties has led all parties to agree that the present system for dealing with unlawful activity is not working well and is inappropriate.

At first it was suggested that all prosecutions should be taken directly to the courts, thereby increasing the number of forums and simultaneous hearings. Arguments opposing this suggestion pointed to: judges unfamiliar with the public service and the relevant statutes, lawyers with insufficient time to prepare for such a mass of separate actions, an inability to group respondents or to make procedural arrangements on a national basis, and the lack of precedent or deterrent value.

In the context of this analysis, Mr. Finkelman suggested that allegations of unlawful activities by designated employees be heard by the Board and that those of non-designated employees be heard by the courts after consent is obtained.

This led to a proposal carefully considered but not accepted by the Committee which suggested that in cases of unlawful activities by designated employees, the employer should have three alternatives:

(a) To impose discipline, subject to the review by the Board of the appropriateness of the discipline, or its extent, through the grievance procedure.

(b) To seek remedial action by application to the Board, the Board to be empowered to impose a monetary penalty or to direct that disciplinary action be taken against the employee.

(c) To seek consent to prosecute an employee in the courts, the Board to be empowered to substitute for consent, on its own initiative or on request of an employee, a penalty or a direction that disciplinary action be taken in accordance with option (b).

Under this proposal, the employer would be entitled to resort to only one of these alternatives with respect to an employee involved in any one offence. On its face, this model appears to allow the employer complete freedom in the selection of the alternative, in that, theoretically all offences could still give rise to consent to prosecute proceedings and determination by the courts.

The existing consent to prosecute proceedings is one of the main characteristics of the present process and has been found to be cumbersome.

Your Committee believes that what is required is a procedure that reduces reliance on "consent proceedings" and on the courts. To achieve this objective, your Committee concludes that the statute should identify three procedural options for dealing with unlawful activity:

(i) Disciplinary action by the employer, reviewable through the grievance process and adjudication.

(ii) Prosecution of an offence before the Public Service Staff Relations Board, and disposition of the case by the Board.

(iii) Prosecution of an offence in the courts and disposition of the case by the courts.

Your Committee is convinced that minor infractions of the statute should be dealt with directly by the employer, that is, utilization of the traditional authority of the employer to deal with employee misconduct. If the employer's imposition of penalties is fair, the basic objective of deterring future unlawful activity will be served. In the view of your Committee, in other cases of unlawful activity, the Public Service Staff Relations Board should be provided with the necessary authority to deal with any infraction of the legislation. Resort to the courts should be limited to those cases considered to be serious offences.

With respect to those classes of action which we believe should continue to be subject to prosecution in the courts, the question arises as to whether prosecution should be dependent upon the consent of the Public Service Staff Relations Board. In this matter, we were persuaded by evidence presented to us by the Board's Chairman, Mr. Finkelman, who in addition to his experience in the administration of his section of the Public Service Staff Relations Act, was both architect and administrator of similar provisions of the Ontario Labour Relations Act. In a submission made to us on June 5, 1975, Mr. Finkelman reflected on his reluctance to recommend removal of the "consent to prosecute provisions" of the Act.

> "One of the reasons for my hesitation is that such an approach would represent a sharp departure from a pattern that prevails in the legislation applicable to the private sector in most jurisdictions in Canada. Even if we were to conclude that such a requirement had outlived its usefulness in industrial relations generally, I believe the elimination of the requirement insofar as it relates to employees in the federal Public Service alone would open the door to a charge that such employees were being discriminated against, par-

ticularly so since in the public sector, the employer is both employer and government."

To achieve the general aim of limiting the involvement of the courts and placing greater emphasis for this responsibility on the parties concerned and on the Public Service Staff Relations Board, you Committee recommends:

23. That three procedural remedies be available for dealing with unlawful actions:

(i) Disciplinary action by the employer, reviewable through the grievance process and adjudication.

(ii) Prosecution of an offence before the Public Service Staff Relations Board, and disposition of the case by the Public Service Staff Relations Board.

(iii) Prosecution of an offence in the courts after obtaining consent to prosecute from the Public Service Staff Relations Board and disposition of the case by the courts.

24. That the statute provide a schedule of offences and penalties applicable to the class of offence.

MAXIMUM PENALTIES FOR UNLAWFUL ACTIVITY

Your Committee has identified the following classes of actions which, under the present Act, are unlawful. These are:

(a) Declaration, authorization or incitement of unlawful strike.

(b) Discrimination against employees or employee organizations prohibited under the Act.

(c) Participation of employees in an unlawful strike.

(d) Intimidation of employees.

(e) Other prohibited acts by unions, employers or representatives thereof.

Having identified the nature of the offences your Committee constructed a schedule of penalties suitable to the infraction. Your Committee further decided that if the offence involves designated employees, it should in whatever class it falls, be regarded as more serious and should therefore attract more severe penalties than similar offences which do not involve designated employees.

Our recommendations with respect to the classes of offences which should be identified in the Act, the procedural options which should be available to the injured party in prosecuting an alleged offence, and the maximum penalties which the act should prescribe for each offence, are set out below. In determining the scale of the maximum penalty which should apply, your Committee reviewed and utilized those provided in Section 190 of Part V of the Canada Labour Code (which of course does not contain references to designated employees). With respect to offences which did not involve designated employees, our recommendations adhere generally to those established by the Code. However, we have recommended that the maximum penalties, where the infractions involve designated employees or interfere with the performance of duties by designated employees, be at least double those imposed against non-designated employees.

So that unlawful activity may be dealt with more effectively, your Committee recommends:

25. That unlawful offences under the Act be dealt with by identifying the party, the nature of the illegal activity, the available option and the forum before which the hearing would take place, and also the maximum penalties for each unlawful activity. (See Schedule 1)

Your Committee heard references on the practices which secure the termination of unlawful activity in exchange for a waiver of prosecution or disciplinary action. However, your Committee deplores such agreements where services affecting the safety or security of the public have been interrupted by an unlawful strike or lockout and therefore recommends:

26. That where "designated employees" have interrupted or impaired services by an unlawful strike or there has been an unlawful lockout and no action has been initiated by the employer or bargaining agent against the contravening parties, then a Special Commissioner whose office shall be independent should be empowered to initiate legal proceedings.

27. That the Special Commissioner's authority to initiate proceedings be limited to the period beginning 15 days after the date of the alleged contravention, and terminating 45 days later.

28. That the Special Commissioner should not be able to initiate any action against any person if a proceeding in respect to that offence has already been initiated.

In its consideration of the deterrent effect of fines on unlawful activity, your Committee recognized the difficulty associated with the concept of a fine which is imposed on the Government as employer. To constitute a deterrent, a fine must have the effect of penalizing the offender. In the case of the Government as employer, the financial impact of a penalty would be significant. Moreover the Government, in its role as custodian of the Consolidated Revenue Fund, simply removes the money from one pocket and puts it into another. The solution to this problem, in the opinion of your Committee, is to convert the nominal economic penalty into a real political penalty by applying the technique now provided in the Act (Section 21) for the enforcement of an order of the Public Service Staff Relations Board, that is, by tabling a report of the Public Service Staff Relations Board in Parliament.

Your Committee also concludes that in cases of unlawful activity it would be useful to identify in the reference, in the case of the employer, where appropriate, the offending department or agency; and in the case of the union, where appropriate, the offending local.

Your Committee therefore recommends:

29. That fines levied by the Public Service Staff Relations Board on employees, or officials of the employer, or on a bargaining agent, be recoverable if necessary by an order of the court.

30. That where the employer is in contravention, the Public Service Staff Relations Board should be required to provide the Minister through whom it reports to Parliament, with a description of the offence, and the Minister should be required to table the Public Service Staff Relations Board's report in Parliament within a prescribed period.

31. That where the action has been taken in the case of the employer by a department or agency, or in the case of a bargaining agent by a component, division or local of

the bargaining agent, the department, agency, component, division or local should be identified.

Your Committee also concludes that the additional remedy of issuing cease and desist orders be attached to the declaration of unlawful strike presently provided by statute at Section 103 of the Public Service Staff Relations Act. The Public Service Staff Relations Board now has the authority, upon application, to find that certain activities constitute an unlawful strike. This procedure should be expanded, in accordance with Mr. Finkelman's recommendation, to include unlawful lockout. Because there is no remedy attached to the present procedure which is merely declaratory, your Committee recommends:

32. That the Public Service Staff Relations Board, upon application, and when it finds that there is an unlawful strike or lockout, be empowered to issue a cease and desist order in all cases of violation.

33. That such order be filed in court and entered in the same manner as a judgment and be enforceable as such.

CLASSIFICATION

Under the present statute, classification standards are established unilaterally by the employer, although the employer consults with the interested bargaining agent before implementation and before undertaking changes. Evidence presented to your Committee by the Treasury Board and the bargaining agents was divergent in relation to the effectiveness of the consultative process. In his original recommendations, Mr. Finkelman concluded that "it is not feasible to make classification bargainable at this time". Instead he recommended a formalized consultation process and mediation as a first step to eventual negotiation. However, after reviewing the evidence presented to your Committee, which indicated that the unions were prepared to negotiate classification standards outside the normal process of collective bargaining, Mr. Finkelman, in subsequent representations to your Committee, proposed that classification should be bargainable as follows:

(a) in the context of a separate bargaining cycle corresponding to the proposed consultation cycle: and as well

(b) in an ordinary round of negotiations where proposals for a revision in the relevant classification standard were included in the demands of the bargaining agent.

Conciliation boards would be prohibited from dealing with references relating to the revision of a classification standard. However, all classification disputes would be referable to arbitration, whether they arose in the context of ordinary bargaining or "separate cycle" bargaining. Resort to strike or lockout to resolve classification disputes would be prohibited. Mr. Finkelman also endorses proposals made by the Public Service Alliance for the arbitration of disputes arising out of the negotiation of a new or revised classification standard on a "sequential" basis. This can be done by identifying the chronological order of the development or redevelopment of a standard, identifying the sequence of decision points which occur in this process, and providing for reference to arbitration of disputes arising at any of the decision points.

Though he accepted the view of the bargaining agents that the legislation should be amended to provide for bargaining on classification standards "at this time", Mr. Finkelman was insistent that a break-in period of "systematic consultation" with recourse to mediation should be imposed by law. The parties, including the Public Service Staff Relations Board, required this time to accustom themselves to the process before eventually engaging in the negotiation and arbitration of classification standards.

During the course of our examination of the extension of the scope of bargaining to include classification standards, and our evaluation of Mr. Finkelman's recommendations and of the representations made to us on this subject by the several bargaining agents and the Treasury Board, your Committee participated in the evolution of a "model" which drew its inspiration from many sources. In our view, an approach to the problem has been devised which, to some extent may have reduced the employer's apprehension on the one hand and on the other attracted widespread support from bargaining agents, who in their initial propositions had not come to grips fully with the complexity of the undertaking.

Your Committee is of the opinion that the law should provide for some extension of the scope of bargaining so as to include classification standards, and recommends as follows:

34. That, having regard to the established jurisdiction of bargaining agents in the Public Service, bargaining classification standards be interpreted to mean the determination of the relative worth of jobs within an occupational group.

35. That provision be made in the law for the bargaining of classification standards following the three-year period after promulgation.

36. That collective agreements incorporating classification standards be treated as "special agreements having their own duration".

37. That in accordance with regulations made by the Public Service Staff Relations Board, disputes arising in negotiations and involving the development or redevelopment of a classification standard be subject to reference to and arbitration by the Board.

38. That the provisions of the Act relating to the appointment of conciliation boards or conciliators not apply in cases of disputes arising out of the negotiations of classification standards, but that the Board be empowered to appoint a mediator.

39. That resort to strike or lockout to resolve classification disputes be prohibited.

40. That arbitration of the pay plan attached to a classification standard be dealt with by the Public Service Staff Relations Board only with the consent of both parties.

The bargaining agents all supported the view that adjudication should be broadened to include classification grievances. This proposal was concurred in by representatives of Treasury Board. Your Committee therefore recommends:

41. That classification grievances which are not resolved in the grievance process should be referrable to adjudication.

TECHNOLOGICAL CHANGE AND LONG-TERM LAYOFF

Modernization, technological change and economic adjustment to the market, or indeed any significant modification in the way in which goods are produced and distributed or services provided may seriously affect the terms and conditions of employment and the security of employees. The computer revolution and advances in transportation technology, agriculture or health are all obvious examples. Currently in the Public Service the automation of mail sorting is the largest and most evident example of "technological change" which may have a serious impact on the employees involved.

In April 1974, the Post Office dispute on technological change erupted into an unlawful strike which was resolved by an informal agreement. Your Committee heard several briefs from bargaining agents, especially from the postal unions, demanding that the impact of technological change on terms and conditions of employment be made negotiable.

Historically, employers have had the right to terminate an individual's employment temporarily or permanently, or to employ him in a less attractive position. *The Report of the Task Force on Labour Relations (1968)* whose studies and report preceded the revision of the federal labour law in 1971, used the term "industrial conversion" to emphasize the way in which any modification or modernization of industry can threaten the security of employees. In its report, the Task Force wrote:

> "The term industrial conversion embraces all major changes that may have a permanent disruptive effect on the employment relationship. It covers far more than technological change or automation, since these are only one set of forces at work leading to such disruption . . .
>
> Industrial conversion has a vital part to play in a dynamic growing economy. Change is essential to society and to individual enterprises. To society, change is the key to the increased productivity necessary to meet latent public needs and unsatisfied desires . . .
>
> But industrial conversion is not without cost to those caught in its path. There is no evidence to suggest that change in general produces a net reduction in employment; but it is the cause of worker displacement and on-the-job disruption. The costs for those adversely affected can be great, and to them it is of little comfort that society as a whole, their employer, and even their fellow workers may benefit from the change. They want to know that is going to be done to protect them."

When the Federal Labour Code was modified in 1971, the statute imposed an obligation on employers to give notice and to re-negotiate "terms and conditions, or security of employment" when a significant number of employees would be affected by the "technological change".

In his *Supplementary Observations and Recommendations,* Mr. Finkelman wrote:

> "In a public service where units are service-wide and very large, the question arises what would be a significant number of employees in any particular circumstances? Under the Code, the power to make regulations specifying the number of employees or the method of determining the number of employees to be deemed to be "significant" for the purposes of the technological provisions of the Code is vested in the Governor in Council on the recommendation of the Canada Labour Relations Board. In short, the legislation recognizes that there is a "political" element involved. If the same formula were applicable in the public sector, should the political consideration be left to the Governor in Council, in effect the employer, or should it be vested exclusively in the reconstituted Public Service Staff Relations Board?"

With respect to the provisions of the Labour Code which relate to the right of employees to strike where their interests are threatened by technological change, Mr. Finkelman wrote:

> . . . the Code provisions contemplate that a collective agreement can be reopened during its lifetime and the union can resort to a strike if it cannot reach satisfactory agreement through negotiation with the employer. Whatever the merits or otherwise of the provisions of the Code in respect of the private sector, they would, if applied to the public sector, expand the opportunity for legal strike action and thereby increase the threat of deprivation of public services.

During the period in which representations were being made to your Committee on this subject by Mr. Finkelman, there was a dispute over technological change between the Treasury Board Secretariat and the Canadian Union of Postal Workers. The parties eventually agreed that any dispute arising out of the impact of technological change on employees in the bargaining unit during the term of the collective agreement would be dealt with by reference to a Special Arbitration Tribunal established by the Chairman of the Public Service Staff Relations Board. The award of the tribunal would be final and binding on the parties. The capacity of the employer to implement change is inhibited only by the prescribed period of notice. In effect, events overtook both the existing legislation and the work of your Committee.

Your Committee concluded that unless there is a capacity to establish duration dates that make sense in relation to the issues negotiated, the agreements or awards might well prove exercises in futility because they might lapse before their purposes were achieved. For example, we were advised that the conversion of manned lighthouses to automated lights is taking five years. While it may be desirable for the law to stipulate that these special agreements should be read and interpreted in the context of the operative collective agreement, except where their provisions conflict with or supersede a provision of the ordinary collective agreement, the parties or the arbitrator must have the capacity to establish an appropriate duration. However, we would also suggest that, if the law is to provide for "special agreements" of long duration in circumstances where that appears appropriate, it would probably need to provide as well for a "re-opener" mechanism, on application of one of the parties to the Board, to order

renegotiation after a prescribed period of time where circumstances so warrant.

Another problem faced by your Committee involved the question of whether or not the employer should be relieved of the responsibility to give notice if, in the employer's judgment, the provisions of the collective agreement already provide appropriate protection. We conclude that the answer is "No". Notice should be provided in all cases of technological change, defined as we recommend. If adequate notice has been provided prior to or during negotiations, or if the employer asserts and the union agrees that no new or different forms of protection are needed to protect the particular situation, the matter could be disposed of without negotiation. However, in the absence of initial agreement on the matter, negotiations should take place and in the course of time would be followed by a special agreement or by impasse and arbitration. In our judgment, such an approach will provide a workable procedural link between protections provided in the ordinary collective agreement and additional or special protections which may be necessary to deal with a particular area of change.

With respect to the present involvement of the Public Service Commission in the area of technological change, and its existing jurisdiction over lay-off, recall and reassignment, the Finkelman proposals would transfer authority for lay-off from the Commission to the Treasury Board and permit lay-off to be bargained and arbitrated. However, recall (i.e. the placement of lay-offs in vacant positions) would be left to the Commission, subject to whatever preferences might be established by statute. The relationship between the Public Service Employment Act and the Public Service Staff Relations Act, in this matter, will form part of the review contemplated in Recommendations 1, 2 and 3.

In relation to long-term lay-off, the Finkelman recommendations are consistent with and constitute an inherent dimension of our recommendations. These recommendations are not applicable to temporary "off-duty" status where there is no loss of job security or need for reappointment. Your Committee supports the concept recognized by all parties in the various collective agreements of "entitlement to pay for services rendered".

Your Committee recommends:

42. That changes in technology, operations, organization or any other dimension of the structure or character of the employer's resources to provide service to the public be recognized as a prerogative of the employer.

43. That the employer be obliged to bargain the impact of adverse changes on employees which may occur as a consequence of the employer's actions referred to in Recommendation 42 above, including the advance notice of such changes and the details to accompany the notice.

44. That the Public Service Staff Relations Board have the authority and responsibility to provide for a mediator to assist the parties where there are differences.

45. That the Public Service Staff Relations Board be empowered to arbitrate or to establish an arbitration tribunal to arbitrate unresolved disputes arising out of negotiations undertaken to deal with technological change.

46. That resort to strike or lockout to resolve technological change disputes be prohibited.

47. That the statute prohibit the employer from laying off an employee during the period of notice recommended in Recommendation 43 above, and that the parties be empowered to negotiate, and the arbitrator to establish where relevant, the compensation to be paid to employees whose job security will be or has been adversely affected by the changes.

48. That any agreement reached or arbitration award made as a result of negotiations involving technological change be treated under the law as a "special agreement" (or award) superseding the provisions and term of the ordinary collective agreement entered into by the parties and operative for such period as may be prescribed in the special agreement or award.

THE ROLE OF PAY RESEARCH IN COLLECTIVE BARGAINING IN THE PUBLIC SERVICE

The desirability of the compilation and availability of precise, independent data on compensation and other conditions of employment outside the Public Service which can be used at the negotiation table is accepted by all. Nevertheless it remains necessary to distinguish between the general concept and any specific application of this concept in the context of negotiations and arbitration. Most witnesses acknowledged the good work of the Pay Research Bureau, but a number of important questions were raised:

(a) Should the Pay Research Bureau be detached from the Public Service Staff Relations Board?

(b) Can the existing reports of the Bureau be made available to bargaining agents in other public service jurisdictions, and the private sector as they are now generally available to employers in these jurisdictions?

(c) Should the Bureau expand its survey activities into occupational areas not required by the federal Public Service?

(d) Should the Pay Research Bureau or other agency undertake research in the criteria enunciated under Section 68 of the PSSRA?

Neither the Director of the Pay Research Bureau nor Mr. Finkelman favoured detaching the Bureau from the Public Service Staff Relations Board at this time. Both anticipated a changing and expanding (more "national") role for the Bureau but stressed the need for time during which the role would evolve and also time for the interested parties, both within and outside the Public Service, to work out the necessary details. Evidence given by the Director of the Bureau suggests that most of the participating employers would not object to the release of Pay Research Bureau reports to bargaining agents in the public sector. A letter received by your Committee from the Canadian Manufacturers' Association indicated the Association's willingness to support wider distribution of Pay Research Bureau reports in the public sector.

The Canadian Manufacturers' Association, the Canadian Chamber of Commerce and the Toronto Board of Trade, the Canadian Labour Congress and the Canadian Union of Public Employees all supported the Bureau's present surveys and reports, the idea of expanding the bureau's area

of research and wider distribution of its reports to all areas of collective bargaining where disputes are resolved by arbitration, (essentially the public sector).

Representations were made urging action which would enshrine the principle of "fair comparison" and which would place a statutory obligation on the employer, and on the Public Service Staff Relations Board in its role as arbitrator, to establish terms and conditions of employment comparable to those paid in Canada by "good employers". Some witnesses saw this kind of statutory commitment as a guarantee which would be granted to Public Service employees in exchange for withdrawal of the right to strike.

The principle of fair comparison with good employers in the private sector would provide public servants with total incomes, benefits and working conditions equivalent to those provided by jointly selected good employers.

In its examination of this principle your Committee noted that if there is merit in the principle, it is in the potential effect on reducing the power struggle inherent in the adversary process. Your Committee rejected the notion of using this principle as the basis of a model of compulsory arbitration and the removal of the right to strike.

After lengthy consideration, your Committee observed that the principle of fair comparison shifts the power struggle from specific wage issues to disputes over the "good employers" to be jointly selected. The unions' interest in selection would be toward the "best employer", while the Government's position would be toward the average employer. The Government, as employer, it is argued, would base its posture on the idea that anything more would be both inflationary and unfair to the Canadian taxpayer. It was also noted that the Government, as employer, believes that its present pay policy results in equitable pay scales, benefits and job security. The employer's substantiation of this is its ability to attract and retain the employees it requires. These factors as well as productivity, profitability and regional disparities would need to be recognized in any definition of good employer.

Your Committee concludes that although opposing positions are inherent in the fair comparison model, such a model may be useful in contributing to a more cooperative mood between the parties based on fair treatment and communication. Albeit that a change in collective bargaining style cannot be legislated, your Committee concludes that mechanisms such as communication and pay research techniques which assist in the resolution of disputes should be improved and enhanced.

Development of a climate of trust and confidence requires effort, time, information, and a willingness to communicate. We applaud the efforts which have been made in the Public Service to establish and facilitate the work of Labour Management Committees and we recommend that more resources be committed by both parties to extend the coverage of these committees and to make them more effective. We support the continuing work of the National Joint Council and its impressive record of accomplishment in dealing with service-wide issues. We are encouraged by the work of the Advisory Committee on Pay Research, but were discouraged to learn that some of the bargaining agents in the Public Service system have refused to participate in the Advisory Committee and by so doing have neither contributed to nor profited from the Bureau's research. Evidence given to your Committee by the Director-General of the Bureau indicates that the Advisory Committee, composed of representatives of the employer and bargaining agents, provides a satisfactory structure for determining the Bureau's program and balancing program priorities. Technical problems arising in connection with surveys which relate to particular negotiations are dealt with in sub-committees whose membership is determined by the particular survey activity under consideration. We urge the involvement of all of the parties to collective bargaining in planning the Bureau's research program and utilizing data procured in its surveys.

The Pay Research Bureau, including the Bureau's Advisory Committee which assists it in planning its programs and reporting priorities, is a very important part of the communication system established by the employer and bargaining agents in the Public Service and can play a most important role in reducing the areas of difference. We support the strengthening of the Advisory Committee and greater utilization of it by the parties.

These positive attributes of employer-employee relations in the Public Service, which reduce rather than increase tensions, have not been emphasized as much as they should have been. We urge the Public Service Staff Relations Board to use its influence and its prestige both to publicize what has been accomplished and to encourage and develop better systems of communication amongst the parties with a view to blunting the sharper edges of the adversary relationship wherever possible.

If this approach were to be taken, we believe some of the posturing which has characterized both initial demands and counter-offers—posturing which tends to mislead both employees and the public—might be reduced and bargaining in good faith facilitated. If more attention were paid and more acceptance given to the data of the Pay Research Bureau, similar improvements could be made. Accordingly, we recommend

49. That the purpose of the Pay Research Bureau continue to be that of supporting the collective bargaining process, to assist in the resolution of employer-employee disputes in the Public Service of Canada, and where appropriate to provide data to assist the collective bargaining process generally in the public sector.

50. That the independent character of the Pay Research Bureau which has always been operationally independent of the government, the employer and the bargaining agents in the Public Service of Canada, continue to be maintained under the administrative control of the Public Service Staff Relations Board.

51. That the Advisory Committee on Pay Research established to assist the Pay Research Bureau in the determination of program priorities and methods continue in this role and that the Board encourage the involvement of all Public Service bargaining agents and all Public Service employers in the work of the Committee

with a view to widening the support which the Bureau provides to the collective bargaining process.

52. That the Pay Research Bureau's activities, methodology and information receive greater publicity so that its value and importance may receive wider recognition from employees in the Public Service of Canada as well as from the general public, therby influencing the collective bargaining process and assisting in the resolution of employer-employee disputes.

53. That wherever possible and without detracting from its primary purpose, the Pay Research Bureau be encouraged to make available its reports for public distribution.

54. That the Pay Research Bureau be empowered to cooperate with similar agencies in other jurisdictions in Canada towards the most efficient and effective gathering, presentation and distribution of employment data. (This recommendation recognizes the necessity of close collaboration with other jurisdictions to ensure that mutual needs are met, methodologies are aligned and that the cost of expanded activities and or additional resources are recoverable or payable. The Committee is hopeful that such expanded activity could take place over time if in fact this is what governments, employers and bargaining agents desire).

55. That, in order to achieve the aim of the above recommendations, the Public Service Staff Relations Act provide for a Pay Research Bureau, subject to the direction and regulation of the Public Service Staff Relations Board, to collect, analyze, present and make available data relating to terms and conditions of employment and related matters in public and private employment.

56. That, recognizing the complexity of the issues faced by the Public Service Staff Relations Board in the discharge of its responsibilities including the rendering of arbitration awards within the terms of reference established by Section 68 of the Public Service Staff Relations Act, the Public Service Staff Relations Board be encouraged to undertake to improve the arbitration process.

MANAGERIAL AND CONFIDENTIAL EXCLUSIONS

This is an issue upon which there was division between the representatives of the employer and of the employee associations. Your Committee heard two main opposing arguments:

(a) That many exclusions were unnecessary and designed to reduce the strength of bargaining agents; and

(b) That the employer's capacity to manage the service efficiently was seriously compromised by the restricted size of its "management team".

Your Committee believes that if collective bargaining is to work it is essential that each side in the relationship have proper representation, and that the law and its administrators must ensure that individuals are not caught in circumstances which generate significant conflicts of interest.

Your Committee concludes that persons exercising effective control over employees, especially in relation to other persons who are members of a bargaining unit, should be properly identified as management and should be excluded from bargaining units and from membership in unions which represent employees as bargaining agents.

Your Committee, to give expression to its conclusions with respect to the central issue of where, in the widely varied operational environments of the Public Service, the line between "employee" and "management" should be drawn, recommends:

57. That the paragraph of the Act which defines "person employed in a managerial or confidential capacity" be amended to read as follows:

"persons employed in a managerial or confidential capacity" means any person who

(a) Is employed in a position confidential to the Governor General, a Minister of the Crown, a judge of the Supreme or Federal Court of Canada, the deputy head of a department or the chief executive officer of any other portion of the Public Service;

(b) Is employed as a legal officer in the Department of Justice;

(c) Is employed as an officer or employee on the payroll of the Treasury Board;

(d) Is directly involved on behalf of the Public Service Commission in a formal process of

(i) Appointments

(ii) Consultation, or

(iii) Redress

prescribed by or under the Public Service Employment Act;

(e) Effectively participates in the determination of government policies or programs, or participates in the approval of plans of organization;

(f) exercises effective control over employees;

(g) (i) Is directly involved on behalf of the employer in the process of collective bargaining or consultation prescribed by this Act or exercises appointing authority on behalf of the employer; or

(ii) Is primarily engaged in the administration of personnel policies or programs other than a person whose duties are of a routine or clerical nature;

(h) Is primarily engaged in the administration of personnel policies or (e), (f) or (g) are directly accountable in respect of the duties described in such sub-paragraphs; or

(i) Is engaged in confidential duties under the exclusive direction and control of a person or persons identified in sub-paragraphs (b), (c), (d), (e), (f), (g) or (h), other than a person in a support capacity whose confidential duties relate solely to the processing of grievances at the first level in the grievance procedure established under this Act,

and includes any other person who, in the opinion of the Board, should not be included in a bargaining unit by reason of a conflict between his duties and responsibilities to the employer and any interest he might have as a member of a bargaining unit.

INCOMPETENCE AND INCAPACITY AND DISCIPLINARY ACTION

Evidence submitted to your Committee reflected the difficulty in drawing the line between behaviour requiring

disciplinary action and involuntary infractions which may be traced to incompetence or incapacity. The 1967 legislation divides the third party involvement in these matters between the Public Service Employment Act and the Public Service Staff Relations Act. The authority of the Public Service Commission under the Public Service Employment Act relates to circumstances where the employer proposes to release or demote an employee for incompetence or incapacity. The authority of adjudicators under the Public Service Staff Relations Act applies to disciplinary action.

This overlap has led to a variety of legal arguments respecting the jurisdiction of the Public Service Employment Act and the Public Service Staff Relations Act in a particular case. Moreover, there is confusion as to the procedure to be followed by management. In their appearances before your Committee, the bargaining agents sought the elimination of this divided authority by bringing releases for incompetence and incapacity within the jurisdiction of the Public Service Staff Relations Board.

Your Committee has studied the problem and supports the elimination of this divided authority, but recognizes that this consolidation should not interfere with the Public Service Commission's appointing authority.

We therefore recommend that:

58. Where the action of the employer results or will result in the termination of employment of an employee from a position in the Public Service, and the reasons alleged by the employer are misconduct, abandonment of position, incompetence or incapacity, the employee should be entitled to grieve the termination action.

59. Where the employee's grievance has not been dealt with to his satisfaction at the final level, he should be able to refer it to the Public Service Staff Relations Board for adjudication.

60. The adjudicator should be empowered to rescind the termination where he upholds the employee's grievance, or substitute other action if the employer's action was not well-founded but he should not be empowered to recommend or effect an alternate appointment.

61. The Public Service Commission should on request reappraise every employee whose employment in a position in the Public Service has been involuntarily terminated to assess whether the employee is suitable for appointment to another position.

62. An employee found suitable for appointment following re-appraisal should be entitled to have his name entered on any appropriate eligibility list and for a period of time (e.g. one year) enter closed competitions.

63. Where the employee is appointed within the period referred to in Recommendation 62 above, ordinary rules of continuity of employment should apply to him.

64. None of the procedures referred to above involving redress of grievance and opportunity for re-employment should apply to an employee who is offered and accepts another position in lieu of termination.

UNION VOTING PROCEDURES

Union voting procedures, particularly strike and ratification votes, have received considerable attention. The present Public Service Staff Relations Act is silent with respect to the conduct of votes by bargaining agents.

The Ontario Labour Relations Act (Section 63) places an obligation on unions conducting a strike or ratification vote to ensure that "ballots are cast in such a manner that the person expressing his choice cannot be identified with the choice expressed". The Ontario Act does not protect the rights of all members of the bargaining unit to vote.

Your Committee recommends:

65. That where a bargaining agent conducts a strike vote, or submits a proposal for a collective agreement to its membership for approval,

(a) The vote should be carried out by secret ballot in accordance with procedures prescribed by regulations of the Public Service Staff Relations Board; and

(b) A breach of the regulations of the Board in this respect should constitute a contravention of the Act, and the union or persons concerned should be subject to the appropriate penalties;

66. That where a bargaining agent conducts a strike vote or submits a proposal for a collective agreement to the members of the unit for ratification, every member of the unit should be entitled to vote, and any act by a union or union official, or any other person, to prevent a member of the bargaining unit from voting should constitute an offence under the Act.

Recent events have also aroused great public concern with respect to the role of conciliation boards and their reports in the resolution of strikes in the Public Service. We have considered at length how to ensure that the contribution which a conciliation board makes might be enhanced. A conciliation board report, whether it is unanimous, a report of a majority of the board, or a report of its chairman, contributes to a settlement.

Your Committee recognizes that, following the publication of a conciliation board's findings, the employer may make an offer which is an improvement over the conciliation report.

The question facing your Committee in relation to the issue was whether or not the statute should require a conciliation board report to be placed before the members of a bargaining unit for approval or rejection, and, if so, when. Your Committee recognizes this as a problem but was not able to agree on an acceptable solution.

CASUAL EMPLOYEES

Government departments and agencies engage casual employees to help meet work fluctuations, for special short-term projects, as replacements for employees on leave or training, for seasonal requirements, and for other similar purposes. Presently, casuals are appointed by the Public Service Commission and are covered by the Public Service Staff Relations Act after six months of employment. Up to six months, casual employees' terms and conditions of employment are governed by Regulations made pursuant to the Financial Administration Act. On the whole, the benefits and the protections of the Regulations are not as generous as those provided by collective agreements.

In 1969 the Treasury Board directed departments to extend to casual employees the benefits of collective agreements from the first day of employment where it is known that the period of employment will exceed six months.

The bargaining agents in their representations to your Committee opposed the six month exclusion from the Public Service Staff Relations Act. Mr. Finkelman initially proposed a reduction to 120 days in any continuous period of 12 months and that students hired during their school vacation period be excluded from collective bargaining. Following representations by the Public Service Commission respecting the appointment process concerning casuals, Mr. Finkelman revised his recommendation from 120 days to 60 days.

Your Committee concludes that there is a continuing need in the Public Service of Canada for persons to discharge temporary duties of indefinite duration. What is left to determine is the status of casual employees; the method of termination of employment and their terms and conditions of employment.

Your Committee recommends:

67. That students hired during their school vacation period be excluded from collective bargaining.

68. That the review of the Public Service Employment Act recommended at Recommendations 1, 2 and 3 determine the process applicable to the appointment of casuals.

69. That the matter of length of casual service and its relationship to permanent or indeterminate appointment also be dealt with by the review recommended at Recommendations 1, 2 and 3.

70. That the employer be able to release a casual employee without notice and without redress.

71. That after working 60 days in any continuous period of 6 months, casual employees be subject to the terms of the appropriate collective agreement.

72. That after working 60 days in any continuous period of 6 months, a casual employee will qualify for any retroactive pay due for days worked during the retroactive period.

Respectfully submitted,

Sidney L. Buckwold,
Joint Chairman.

THE SENATE

Tuesday, March 2, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

RULES OF THE SENATE

The Hon. the Speaker: Honourable senators, I should like to draw to the attention of honourable senators the new edition of the Rules of the Senate, copies of which have been placed on the desks of senators and distributed to their offices.

This edition of the rules incorporates the amendments that were set out in the Report of the Committee on Standing Rules and Orders, presented to the Senate on October 29, 1975, and printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings of the Senate* of that day.

As honourable senators may recall, the report containing the proposed amendments to the rules was adopted by the Senate on November 26, 1975. It was later decided, by order of the Senate on February 4, 1976, that the amendments, as published in the new edition, should become effective on March 1, 1976.

In order to distinguish this edition of the rules from the previous rule book, honourable senators will note that the cover has a new design and a format that incorporates for the first time a reproduction of a drawing of the Senate mace.

The book also contains a new index in both French and English, with each version being printed separately on pages of a different colour. Senators will note as well that Appendix II is separated from the first half of the book by a coloured divider. It should also be noted that the list of "Related Enactments" in Appendix I has been brought up to date, and the appendix has been expanded to include the text of certain provisions in the statute law that govern or relate to procedure in the Senate.

EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that messages had been received from the House of Commons to acquaint the Senate that the names of Messrs. Blais and Francis had been substituted for those of Messrs. Collenette and Marceau on the list of members appointed to serve on the Special Joint Committee on Employer-Employee Relations in the Public Service.

TEMPORARY IMMIGRATION SECURITY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-85, respecting immigration security.

Bill read first time.

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

Senator Perrault: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(f), I move that this bill be placed on the Orders of the Day for second reading later this day.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of Information Canada for the fiscal year ended March 31, 1975.

Report of the Superintendent of Insurance for Canada, Volume III, Annual Statements of Life Insurance Companies and Fraternal Benefit Societies, for the year ended December 31, 1974, pursuant to section 8 of the Department of Insurance Act, Chapter I-17, R.S.C., 1970.

Copies of Fact Sheets on New Energy Conservation Measures, issued by the Department of Energy, Mines and Resources on February 25, 1976, together with Press Release thereon.

Lists of shareholders in the Chartered Banks of Canada as at the end of the financial years ended in 1975, pursuant to section 119(1) of the Bank Act, Chapter B-1, R.S.C., 1970.

List of shareholders in the Montreal City and District Savings Bank as at October 31, 1975, pursuant to section 101(1) of the Quebec Savings Banks Act, Chapter B-4, R.S.C., 1970.

PROGRESSIVE CONSERVATIVE PARTY OF CANADA

CONGRATULATIONS ON ELECTION OF LEADER

Senator Perrault: Honourable senators, this is the first opportunity I have had to congratulate the official Opposition on its new party leader. On behalf of the government and the government supporters in this chamber, may I wish the new party leader and leader of the official Opposition in the other place a long and happy career as Leader of the Opposition.

Senator Flynn: I assure honourable senators that the wish of the Leader of the Government will not be realized. I feel quite confident that as a result of the election of the

new Leader of the Opposition, the Leader of the Government will be forced to change places with me in approximately two years' time.

Senator Langlois: Wishful thinking.

Senator Flynn: In any event, I thank the Leader of the Government for his sentiment. I am sure he expresses the sentiment of all honourable senators in wishing success to the Leader of the official Opposition, the alternative government which is so desired by the whole of Canada.

● (2010)

FOREIGN AFFAIRS

CANADIAN GOVERNMENT'S POSITION RESPECTING FINAL ACT OF HELSINKI CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE

Senator Carter: Honourable senators, I ask leave to present a motion concerning an urgent and important matter.

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

Hon. Senators: Agreed.

Senator Carter: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(h), I move, seconded by Senator Yuzyk:

> That this House supports the Canadian Government's position that, as expressed in the House of Commons on December 2, 1975 by the Secretary of State for External Affairs, the Final Act of the Conference on Security and Co-operation in Europe signed at Helsinki in no way confirms the territorial status quo in Europe, and that in particular the status of Estonia, Latvia and Lithuania, as it is at present recognized by Canada, has in no way been altered thereby.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Carter, seconded by the Honourable Senator Yuzyk—

Hon. Senators: Dispense.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to.

MARINE SAFETY

BRITISH COLUMBIA FISHERIES—QUESTION

Senator Austin: Honourable senators, this past weekend has been one of tragedy for fishermen in British Columbia. The first day of the opening of the herring fishing season saw lives lost and vessels sunk. I should like to ask the Leader of the Government in the Senate, who also comes from British Columbia, what steps the government is taking to ensure maximum marine safety in our fishing waters?

Senator Perrault: Honourable senators, I appreciate very much the fact that advance notice of this question was given.

The matter of marine safety is of concern to all Canadians, whether hazards occur on the east coast, the west coast or in our Arctic waters. Indeed, I would remind honourable senators that the Deputy Leader of the Government in the Senate is a voluntary search master for the Atlantic on the east coast, so honourable senators can see that the government is very concerned about this general question.

In reply to the Honourable Senator Austin, I repeat that I appreciate the fact that he has given me advance notice of his question. The Canadian Coast Guard is steadily increasing its activities in the field of marine safety and in search and rescue operations. This is reflected in the search and rescue budget, which has increased from about $700,000 in 1967 to more than $3 million for the coming fiscal year.

To summarize briefly the history of search and rescue in Canada, specific facilities and organization for this purpose were virtually nonexistent in Canada prior to 1951. The RCAF undertook most search and rescue assignments as they were required.

In July 1951 a government directive established the RCAF as coordinator of all search and rescue operations, both air and marine. As a result of this directive, a rescue coordination centre was established in Vancouver and fully manned 24 hours a day with personnel trained in search and rescue procedures. In 1960 this centre was transferred to its present location in Victoria.

In 1960 the Canadian Coast Guard was given specific responsibility for marine search and rescue activity, and in that year orders were placed for the construction of special search and rescue cutters. At the same time, a Coast Guard Rescue Officer was appointed.

In 1963 the Coast Guard took delivery of two 95-foot search and rescue cutters, the *Ready* and *Racer*. The following year saw the establishment of the present Kitsilano Coast Guard base at Vancouver. At this time, two smaller cutters, the *Mallard* and *Moorhen*, were transferred from the RCAF to the Coast Guard.

In 1968 Canadian Coast Guard resources were boosted with the arrival of the SRN5 Hovercraft from the United Kingdom, which was stationed at Sea Island. In 1970, a third 95-foot cutter, the *Rider*, was acquired. In the same year, three steel self-righting lifeboats were obtained. Two of those lifeboats replaced the wooden boats then stationed at Tofino and Bamfield, while the third was assigned to Bull Harbour to meet the increasing demand in the North Vancouver Island area, particularly during the summer fishing season.

The Inshore Rescue Boat Program was begun in 1972. This involves the use of 16-foot inflatable boats manned, in part, by university students during summer months. The purpose of this program is to meet the increasing demand to provide assistance to the multitude of small pleasure craft frequenting the sheltered water of the lower Strait of Georgia. Since 1972, the program has been expanded to four Inshore Rescue Boat units stationed at Victoria, Nanaimo, Pender Harbour and Ganges.

Supplementing the Canadian Coast Guard Search and Rescue Organization, we benefit greatly from the service of about 80 volunteer rescue agents, strategically located along the west coast. These volunteers play an important part in the search and rescue field, primarily as a com-

munication link between the Rescue Coordinating Centre in Victoria and the area in which an incident has occurred, or is believed to have occurred.

Understandably, the thousands of miles of shoreline along the British Columbia coast virtually rule out the possibility of ever having the resources available to meet every incident. For this reason, all government-owned vessels, including naval ships, are called upon to play an active role in any marine emergency. Added to this, we must all recognize the legal and traditional requirement of all mariners to aid those in distress at sea.

The Canadian Coast Guard is currently reviewing, on a national basis, its present resources, and is exploring possible new roles both in search and rescue and, very importantly, in the field of prevention of boating accidents. One of the areas which, I understand, will get immediate attention, is that dealing with a proposed voluntary coast guard auxiliary. We are expecting implementation guidelines in this regard by May of this year.

I appreciate the tolerance and indulgence of honourable senators in respect of the lengthy nature of this reply, but I am sure they recognize the great importance of this entire problem to those who live on the west coast of Canada.

Senator McDonald: Honourable senators, I wonder if I might ask a supplementary question to that which has already been asked with regard to search and rescue, not only on the west coast but around all the coasts of Canada.

No doubt we are all interested in the numbers of cutters and hovercraft that are employed in search and rescue, but we appreciate as well the fact that aircraft are much more successful in search and rescue because it is much easier to survey a large area from the air than it is from the surface. I am wondering if the Leader of the Government could tell us what the air element of search and rescue on our coasts consists of.

● (2020)

Senator Perrault: While I must take that question as notice because of its technical nature, may I say that because of the inevitable world trend towards the establishment of a 200-mile zone of economic interest along the coasts of nations abutting the oceans of the world, it seems obvious that the role of Canada's air arm, the Coast Guard and the naval arm may well have to be enhanced in the future. I shall endeavour to obtain a more adequate reply of a specific nature to the question posed by the honourable senator.

Senator Flynn: It is quite obvious that Senator McDonald did not give the Leader of the Government the same advance notice as did Senator Austin. In view of the length and detail of the reply the Leader of the Government gave to Senator Austin, he probably received notice about ten days ago.

Senator Perrault: Nevertheless, now that I have notice of Senator McDonald's question I can prepare a lengthy reply to be given at some future date.

Senator Flynn: No doubt.

ANTI-INFLATION PROGRAM

FERRIES OPERATING BETWEEN PRINCE EDWARD ISLAND AND NEW BRUNSWICK—POSSIBLE INCREASE IN FARES—QUESTION

Senator Bonnell: Honourable senators, now that we have heard from the west coast, could I ask the Leader of the Government if it is the intention of the government to increase next year the fares on the ferries operating between Prince Edward Island and New Brunswick? If so, will the increase be within the guidelines of the anti-inflation program? Realizing that the Government of Canada lost the court case with the Province of Prince Edward Island respecting their responsibility for the operation of the ferries to Prince Edward Island, could the leader find out for us if it is the intention of the government to raise the fares on the ferries going to Prince Edward Island?

Senator Perrault: As yet no decision has been made on that matter. However, I can assure all honourable senators that paramount in the mind of the government is the importance of providing adequate service to those Canadians who live on Prince Edward Island, and those people who live in other centres of the Atlantic provinces, including Newfoundland. Inevitably, of course, when any government undertakes the task of reviewing and establishing economic rates and tariffs, at the same time assessing the importance of protecting the public interest, at some point a decision must be made where a balance should be struck. As yet no decision has been made.

INCREASE IN BUS FARES IN SAINT JOHN—QUESTION

Senator Riley: Honourable senators, I live in a town which has a bus service whose fares have gone up 100 per cent. Is that within the anti-inflation program limits? I cannot understand it. They went up from 25 cents to 50 cents. Has the government any ideas about that? I just do not understand.

Senator Perrault: Honourable senators, I understand that the establishment of bus fares and tariffs is a provincial responsibility. I can only suggest to the honourable senator that he should turn to another level of government of another political persuasion for an answer to his question. Perhaps if the Government of the Province of New Brunswick determines to ask the Anti-Inflation Board in Ottawa to rule on the increases in fares, and whether or not they are within the guidelines, that is an entirely different matter, of course, and I do not have an answer to that at the present time.

Senator Riley: I would remind the Leader of the Government that it is not a provincial matter; it is a municipal matter.

Senator Flynn: It is the same thing.

Senator Riley: When one speaks of provincial affairs, it is not the same thing as municipal affairs. In this particular instance, it is a municipal matter. The fares have been increased by 100 per cent. Perhaps the government has an answer for that. I do not know.

Senator Perrault: Senator, I will certainly seek information on this point. The Public Utilities Commission of the province has power to establish municipal bus fares, and the fares charged by provincial carriers as well.

In any case, may I take that question as notice and endeavour to obtain whatever information is available as to whether there is any federal responsibility involved.

Senator Riley: It is not correct. I was chairman of the Public Utilities Commission and we had no authority over the buses in Saint John. We simply did not have authority over the bus fares charged in Saint John. If you are going to have anti-inflation regulations, use them.

Senator Perrault: Honourable senators, may I say that the federal anti-inflation guidelines, so described, apply to all Canadians and to all aspects of Canadian economic and social activity, whether or not a group or an industry comes technically within them.

If there has been an increase of 100 per cent in bus fares anywhere in this country, as would seem to be the case on the basis of the information given by the honourable senator, that new fare structure would exceed the anti-inflation guidelines. However, without obtaining further and more detailed information, it is impossible for me to give a definitive answer. I ask the honourable senator to give me any further details he may have, and I will certainly undertake to obtain the government's position on this matter.

Senator Forsey: May I ask the Leader of the Government a supplementary question? Surely, even if the situation is as Honourable Senator Riley describes it, the provincial legislature would have jurisdiction to place the municipal bus fares in Saint John under the authority of the provincial body. So, once again, it would appear to me—and I ask guidance and correction, if necessary, by the Leader of the Government—the remonstrances of the Honourable Senator Riley should be addressed to another government, and another level of government.

Senator Perrault: This was my original suggestion because the municipal governments are the—and I hate to use the word—creatures of the provincial governments. Under the anti-inflation program it is proposed that all provincial governments and provincial crown corporations be subject to the anti-inflation guidelines program.

I understand that the Maritime provinces have asked the federal government to supervise the application of the guidelines to their employees and provincial crown corporations. I would think that ultimately municipal bus fares would come under the federal program as a result of the agreement between the Maritime provinces and the federal government. However, as I say, I must obtain further information in order to provide a more adequate reply.

FORESTRY

DEVASTATION OF FORESTS OF EASTERN CANADA BY THE SPRUCE BUDWORM

Senator Burchill: Honourable senators, before the Orders of the Day are called, I would refer to the proceedings of the Senate of July 9, 1975 when I joined with my colleagues from the province of New Brunswick and senators from other provinces in deploring the fact that the federal government had declined to share in the expenses incurred in the battle against the spruce budworm in New Brunswick.

[Senator Perrault.]

• (2030)

Following that discussion I should like to put on record the information that arrangements have now been concluded to spray ten million acres or more of forest land in New Brunswick during 1976 at a cost of $18.9 million. Of that amount the province of New Brunswick will pay $7 million, industry will pay $6.3 million, and negotiations have been concluded by which the federal government has made available $6.5 million from funds which were allocated to DREE.

I am sure the people of New Brunswick, who regard their forests as the lifeblood of the provincial economy, will greet this announcement with great satisfaction and appreciation.

Senator Rowe: Honourable senators, does Senator Burchill know what type of spray will be used?

Senator Burchill: I can say that I noted, in the announcement made yesterday by the Minister of Natural Resources for New Brunswick, words to the effect that DDT will not be used. I cannot go further than that.

NATIONAL DEFENCE ACT AND CRIMINAL CODE (TOTAL ABOLITION OF CAPITAL PUNISHMENT)

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Argue, seconded by the Honourable Senator O'Leary, for the second reading of the Bill S-23, intituled: "An Act to amend the National Defence Act and the Criminal Code (total abolition of capital punishment)".—(*Honourable Senator Prowse*).

Senator Petten: Stand.

Senator Argue: I wonder if I might direct a question to the Government Whip? This motion has been standing in the name of the Honourable Senator Prowse since June 10 last. I know that Senator Prowse has not been well for a good part of the intervening time, but I doubt that he would wish this motion to stand indefinitely, thus preventing the normal conclusion of the debate. Surely, this gestation period of nine months should lead to something more than a continuing adjournment. In my opinion, the Senate would be wise to allow a closing of the debate, and to take a vote on second reading.

Senator Flynn: Ask leave to withdraw the bill, since there is a bill in the other place.

Senator Argue: I do not agree to that at all. This bill was introduced in good faith. It is a good bill. It stands on its own. I do not think the Senate should play second fiddle to the House of Commons in this or any other matter. We certainly have the right and privilege to move the second reading of a bill dealing with a public question. This bill is completely in order; nobody is suggesting it is out of order. I think it would be wise and proper for the Senate to deal with it in the normal course of events, and I hope it would pass. In fact, I am confident it would pass, and if the Senate were to vote resoundingly in favour of the abolition of capital punishment, I know of nothing more helpful to strengthen the hand of those who wish to see the law of the land make provision for the complete abolition of

capital punishment. It is my hope, therefore, that I might have the opportunity to close the debate.

Senator Petten: Honourable senators, Senator Argue wanted to ask me a question, but I think he went a little further. However, in answer to the first part of his question I think I should say that in deference to Senator Prowse I must discuss it with him. I do not know when he will be back, but I undertake to discuss it with him.

Senator Argue: Thank you. That is fair.

THE SENATE

TELEVISION AND RADIO COVERAGE OF HOUSE AND COMMITTEE PROCEEDINGS—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Greene, P.C., calling the attention of the Senate to the desirability of permitting complete television and radio coverage of the proceedings of the Senate and of the public proceedings of all Senate Committees.—(*Honourable Senator Robichaud, P.C.*).

Senator Robichaud: Honourable senators, I expected Senator Greene to be here today. I did not want to discuss this inquiry in the Senate until I had had a chat with him. I would ask, therefore, that this order stand for a week, until March 9, when Senator Greene will probably be back.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order stands.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—DEBATE CONCLUDED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Michaud calling the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.—(*Honourable Senator Petten*).

Senator Petten: Honourable senators, I yield to Senator Fournier (Restigouche-Gloucester).

[*Translation*]

Hon. Michel Fournier: Honourable senators, I am grateful to Senator Michaud who moved this motion calling the attention of the Senate to "certain economic conditions existing in the province of New Brunswick".

In his remarks he also referred to an open letter from the clergy of the Roman Catholic Church sent to the Prime Minister of Canada and the Premier of New Brunswick dealing more particularly with the economic and social situation in the northeast of the province.

This brief which sets forth the situation in a clear and quite earnest alarming manner, according to the letter, was largely endorsed by a good majority of the religious and civil authorities as well as by people of all faiths and denominations.

I fully support this document myself. Coming from the area and being aware of the situation, I feel duty bound tonight to raise the matter in this house. I would have liked to quote many extracts from this document and comment on them, but to save the valuable time of my honourable colleagues I ask leave of this house, with your permission, Madam Speaker, to append this letter to the record.

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

Hon. Senators: Agreed.

(*For text of letter see appendix p. 1854*).

Senator Fournier (Restigouche-Gloucester): If I wish to comment on the situation in the northeast of New Brunswick, it is because I consider it very serious but not irrevocable if it is dealt with as it should be. I understand that problems exist from coast to coast in the poorer areas, especially in the Maritimes.

Some will argue that the situation is not new and not any worse there than elsewhere. The situation is indeed much more critical there than elsewhere. When we see that the unemployment rate in the northeast is twice the provincial average, and even three to four times higher than in a certain other area, we must admit this is not normal and we must look for the causes. After they have given a great deal of attention to some relatively well-off area compared to the others, it is hard to understand why our governments sometimes go on making the big capital investments in that same area rather than somewhere else where every reason would warrant it. As an illustration, here is a typical case in New Brunswick. When it came to choosing a site for a nuclear power plant in New Brunswick, a $600 million investment, the ideal site first selected in Gloucester county was overlooked in favour of Pointe Lepreau near Saint John. It was mentioned in the study that the Gloucester site had much less seismic exposure, was better from an environmental point of view, close to an abundant source of labour with an unemployment rate around 20 per cent, whereas Saint John had only 2 per cent unemployment. Such decisions are hard to understand. The small group of people who fear and oppose a nuclear plant in Gloucester can now sleep tight, because the Hatfield government is nowhere near building a second plant in New Brunswick.

I shall not delve into all our problems, unless it be to seek or suggest solutions. What strikes us most is such poverty in so rich a country, as stated in the clergy's brief, and so much unemployment where so much could be done.

Indeed, the northeastern part is not without natural resources and resources of all kinds, as will be seen further on. When there was talk about creating the Department of Regional Economic Expansion in 1969 we, from the least favoured areas, had great hopes, thinking that a department especially created to look after regional disparities was going to solve a great many of our problems. Unfortunately, after more than seven years of existence, one is almost forced to admit that economic conditions in that area are not much better than before.

Could it be that this department made the same mistakes in New Brunswick as other economy-geared departments made in the past all over Canada, focussing all their atten-

tion and spending money on centralizing industry and promoting large centres? I will simply give another illustration from our province, in addition to the one I gave for the nuclear plant. In New Brunswick we have two urban centres, namely, Saint John and Moncton, which are relatively important for the province. I admit that those cities need to be helped and have their share, but not at the expense of the rest of the province. Now, if we figure out the grants and moneys spent on infrastructural works alone we realize that that is where big investments went.

It seems to me that if one is sincere and really wants to eliminate regional disparities one should start by setting some balance and arriving at a more accurate notion of progress. It is time for our economists to stop believing that progress only means development of large urban centres and centralization of industry. Is it not true that we find today that this kind of development brings malaise and increasingly complex problems like those experienced in large cities like Montreal, Vancouver and Toronto?

● (2040)

Our urban centres are important and industry is necessary but for real progress we have to consider our country as a whole and also think of our primary industries from coast to coast. We must give back to our primary industries, to our agricultural, forest, mineral, tourist, fishery resources and so on, the position they deserve.

For real progress, we must stop exporting a large part of our raw materials and process them ourselves as much as possible and encourage industries that will produce manufactured or semi-manufactured goods from our resources. But the main consideration to ensure the happiness and prosperity of our people is to see that the industry is organized to the advantage of the people around it as well as for the benefit of the corporation that operates it.

I mentioned earlier that to have a prosperous country, we should start by promoting and protecting our primary industries; I shall add that the first and maybe the most important industry is agriculture. In fact, when agriculture is prosperous in a country or a province, this country or province is generally prosperous. There is no better yardstick of economic well-being.

In my area in the northeast, unfortunately we neglected agriculture, which was relatively prosperous before. Yet we do have good farm lands. The counties of Gloucester and Restigouche alone have enough good farm land to feed and maintain a population three times as large. Since our colleague Senator Michaud did very well in making that point, I shall not comment any longer on the subject. I would simply tell him I agree entirely with the representations he made to both agriculture departments, federal and provincial, for the true provision of a next generation of farmers, a better system of farming education, and for his suggestion to use presently unoccupied facilities the Memramcook Institute, to which I would add the Northeast Technological Institute.

Another area that is very important to our region, because it has access to the Gulf of St. Lawrence and the Chaleur Bay, is coastal and offshore fishing. At least 65 per cent of the fish caught in New Brunswick come from that fishing area. For the time being fishing is somewhat risky because of the decline in certain species of fish. It is to be hoped the Hon. Mr. LeBlanc, our Minister of Fisheries, will succeed in his conservation program, but without any harm or injustice to the *bona fide* lobster fishermen who have always been involved in that kind of fishing.

The professional people and the trades people who are protected by associations—public servants, police officers, teachers, permanent railway employees and company executives paid on a yearly or monthly basis—could understandably be requested to cease any commercial fishing and surrender their licences. But for those working on an hourly basis with no job protection, whether full-time employees or not, I suggest the licences should not be cancelled this year so that their cases can be seriously examined.

As regards the 200-mile limit, if the minister is successful in that feat of strength, he will have given the best possible gift to every fisherman in the Gulf, in Quebec and in the Atlantic provinces, for the benefit of our future fisheries.

Before important reserves of ore were discovered in the area, it is safe to suggest that our forest and pulp industry certainly was the most important source of revenue in the northeast. We have in the area 85 per cent of all wooded Crown lands and more than half of the pulp mills in the province. You can easily imagine the importance that the industry should normally have for our area.

Unfortunately, things do not seem to go as well as we would like. The large number of pulp and paper mills which have settled there do not seem to have brought all the wealth which was anticipated. Studies made a few years ago showed that our forest resource management was not of the best quality. It was found that a good part of our wooded areas were not put to sufficient use and were wasted because of aging. Another important problem at the moment is the damage caused by the spruce budworm, this insect that we have never been able to eliminate but that we seemed to be controlling until two years ago. In the last couple of years the disease spread at an epidemic rate and this insect seems to have become a national and even an international threat since it is now attacking neighbouring provinces and the New England states. I am happy to have heard tonight Senator Burchill announce that this year forests will be sprayed better than in the last two years.

Following this study on forest resources, the provincial government decided to launch a pilot project in the Bathurst area, a sort of complex equipped with a large sawmill which would use all the wood and eventually supply several related industries which would make manufactured or semi-manufactured products and send byproducts and waste to the pulp plants in the form of wood chips. Moreover, all the surplus lumber of this mill would not be sold on the local market but would be shipped elsewhere so as not to hurt financially the small sawmill operators.

The project seemed very good and well conceived and the provincial government had no difficulty in selling this idea to the public, and even to the federal government, which invested nearly one million dollars in it and found a company, called Brunswick Mills, to operate it.

But after less than one year of operation, it was established that the forest does not provide trees of the quality and size required, that too great a percentage of production had to be thrown away because of rotten wood, and that

the lumber could only be sold on the local market. You can imagine the problems and the disarray which the owners of small mills experienced when that lumber was sold on the local market.

I hope anyway that the Brunswick Mills project will succeed and that the government and citizens of New Brunswick will not incur a financial loss as was the case for Bricklin.

We could have so easily used the $20 or $30 million wasted on Bricklin to help small industries in our province.

● (2050)

[*English*]

I cannot complete my remarks without raising the subject of mining. We have in northeastern New Brunswick some of the largest ore bodies of base metals in North America. To illustrate my point allow me to quote one paragraph from an article written in *The Canadian Mining Journal* of February 1974:

> The Bathurst mining camp has some 33 primary sulphide ore deposits and many are expected to achieve production in the future. A metallurgical breakthrough such as hydrometallurgical extraction is needed to promote the region into one of the larger mining camps in the world.

Two years ago I spoke on the same subject in this chamber. After having said that Canada was the world's leading producer of zinc, and New Brunswick the second largest producing province in Canada, I stated, in part, as follows:

> The first thing that we ought to expect in New Brunswick is a zinc smelter. It is absolutely unthinkable that all our zinc should be shipped outside the country as concentrate.

That was two years ago and one year later a feasibility study on zinc smelting in northern New Brunswick recommended a smelter. This study was completed in April 1973, almost three years ago and, for some reason, was never made public by the New Brunswick provincial government. The Minister of Natural Resources for New Brunswick seems to be in favour of a zinc smelter and admits that there is a place and need for one, but has been unable up to now to move his government and the Noranda company to take action. We are actually shipping out of the province approximately 400,000 tons of concentrate, sufficient to supply two smelters. Even if we built one, we would still have large quantities to ship for export—sufficient to keep our market in Europe open. It is important, therefore, that the decision to build should be taken now, in order for the smelter to be ready by 1979 at the latest, and before it is decided to build another smelter in Europe to use our production.

As I said at the beginning, to permit the companies to take our nonrenewable resources and ship everything abroad without refining is a crime, an injustice to our people and a loss to our province. For the next 40 to 50 years at least I would say that the economic future of the northeastern region will depend in great part on mining, and it is up to us to make the best of it.

[*Translation*]

There is another point I would like to make briefly, before closing. It is very important for our region; it is the tourist industry.

A couple of weeks ago, while reading "*L'aviron*," a local paper from Campbellton, I noticed a press release from the Tourist Association of New Brunswick relating to an agreement on tourism. One could see in block letters the heading: "Federal-provincial agreement an injustice for the northeast". And, further down, it said that the Association called as unacceptable the latest tourism agreement signed in December 1975. The federal-provincial agreement is, indeed, an injustice for the northeast. The release describes it as unacceptable because only 8 per cent of the budget is earmarked for the northeast region.

This seems to me a little stupid, indeed; however, I do not have with me the number of people and the area involved.

But, if we go back to other agreements, the northeast seems to always get the short end of the stick, as was the case for transportation on highway 11, for instance.

As a matter of fact, it will be recalled that the federal minister refused at the time to sign the agreement because he claimed that highway 11 was not one of the priorities of the province. It must be kept in mind that under these federal-provincial agreements which come under provincial jurisdiction, it is up to the province to establish its priorities and to decide where and how the moneys must be spent, although the federal government usually contributes the largest share; for instance, under this agreement, 80 per cent or $7.9 million out of $9.9 million.

In conclusion, I shall say a few words regarding transportation.

It is common knowledge that transportation is vital to all the Maritimes, but it is even more so to the northeast because our highway system is the most inefficient and probably the worst throughout the Maritimes—to such an extent that it is a deterrent for all the tourists who would like to come and visit us.

The CNR railway service has always been good in our area. But now most people travel by plane so that our passenger trains are half empty, and I am afraid that we will soon lose our passenger railway service which until now has served us well but does not look too promising for the future. And since the air service is far from adequate in our area, I am very much concerned about the immediate future.

Therefore, I suggest that the Minister of Transport conduct an immediate study so that we may avoid the worst in the future. If nothing is done within five years, the situation could become critical.

Our greatest mistake was not to build an airport in this area; we should have all worked together in the northeast in order to have a good service, a good airport, instead of which all municipal governments were bickering to get their own municipal airport.

The future of passenger service in our country belongs to aviation. With the new types of short-landing aircraft, it should be possible to set up an adequate transportation system to serve the less populated and remote areas.

As regards shipping, in the northeast we are lucky enough to have a port which could become one of our better Canadian ports if industry is finally attracted to our region.

I dealt with this subject two years ago, so I shall not bring it up again. But we have the only seaport in the northeast that can supply and harbour ships ranging from 25 to 80,000 tons without the help of ice-breakers, etc. So that port is available for deep-sea marine operations. Unfortunately, we do not have enough industries at present to supply and develop it, unless the mines are developed.

Senator Riley: Would the honourable senator allow just one question? You have mentioned unemployment rates in your province. What is the unemployment rate for your constituency? You said that the rate was 2 per cent in Saint John. What are the rates for the constituencies of Gloucester and Northumberland?

Senator Fournier (Restigouche-Gloucester): I do not have the rates for all the constituencies. But the rates of 20 per cent for Gloucester and 2 per cent for Saint John I mentioned earlier applied at the time it was decided to build the nuclear plant in Saint John. So, those were the approximate rates at that time. Usually, during the winter, the rate for Gloucester may go up to 30 per cent. During the recent summer the rate was about 15 per cent. But I am sure it was considerably more than that this winter. Unfortunately, I do not have the percentages for the other individual constituencies.

Senator Riley: At the present time, what are the percentages in Gloucester, and in the constituency of Northumberland, but more especially in Gloucester? Do you have the figures? Truly, it is a tragedy. I am going to make a speech on the tragedy in Gloucester. First, I want to get the figures, the percentage as related to the whole of Canada. What is the proportion of unemployed workers in the constituency of Gloucester in New Brunswick?

Senator Fournier (Restigouche-Gloucester): As I told you, honourable senators, the percentages I quoted in my speech referred to the situation at the time the decision to establish a nuclear plant in Saint John was made. The figure was 20 per cent for the constituency of Gloucester; in Saint John, it was a little less than 2 per cent. At the present time, however, I do not have the percentages for the entire province but generally the figure for northeastern New-Brunswick is twice as high as that for the whole of the province. The percentage for the province was about 14 to 15 per cent not very long ago but I do not have the figures for the individual constituencies.

● (2100)

[*English*]

The Hon. the Speaker: As no other senator wishes to participate in the debate, this inquiry is considered as having been debated.

TEMPORARY IMMIGRATION SECURITY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Léopold Langlois moved the second reading of Bill C-85, respecting immigration security.

[Senator Fournier (Restigouche-Gloucester).]

He said: Honourable senators, the Temporary Immigration Security Bill now before us for consideration will make it possible for the Minister of Manpower and Immigration immediately to refuse admission to Canada of suspected terrorists as soon as they are identified at ports of entry or in Canada. The government considers this an essential piece of legislation in view of the forthcoming Olympic Games and Habitat, the UN-sponsored international conference in Vancouver.

The bill will empower the minister to order the deportation of any person *other than a Canadian citizen or landed immigrant*—those are key words in the bill—who in the minister's opinion, is likely to engage in any violent criminal activity if admitted to Canada or permitted to remain therein. Such a deportation order would not depend upon the usual preliminary formalities of a special inquiry or the production of evidence of the applicant's inadmissibility.

Under the present law, no one can be ordered deported at a port of entry and sent away from Canada without first being given an opportunity to examine and contradict evidence against him. In the case of suspected terrorists, such evidence most often comes from sensitive or protected sources. Neither the incriminating information nor its source can be revealed without rendering that source public, and thereby possibly endangering national security.

The additional authority which the government now seeks to confer upon the Minister of Manpower and Immigration is already available to him for similar situations which might occur within Canada. This temporary security bill will extend the minister's existing power to order the deportation of visitors—I emphasize the word *visitors*—within Canada to encompass applicants for admission at ports of entry.

This bill, as honourable senators will have noted, will expire on December 31, 1976. It has been designed to meet immediate and pressing security considerations, to enable Canadian officials to deal effectively with possible threats related to the fast-approaching XXIst Olympiad and, as I mentioned earlier, the UN-sponsored Habitat conference on the west coast.

During the current year the government intends to present Parliament with new legislation dealing with immigration which will embrace the concerns of this temporary bill. As the minister has already mentioned in the other place, existing legislation will not be affected by this temporary measure.

I remind honourable senators that the bill received quick passage in the other place following an understanding among the various parties. Due to the urgency of the situation and the importance for Canada to take preventive measures at this time in view of the important international gatherings to be held in this country, I hope that the Senate will give speedy consideration and passage to the bill.

On motion of Senator Smith (Colchester), debate adjourned.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—ORDER REINSTATED AND DEBATE ADJOURNED

Senator Riley: Honourable senators, with the permission of the Senate, I would like to refer to the inquiry of Senator Michaud.

Senator Asselin: Is it an urgent matter?

Senator Riley: It is an urgent matter.

Senator Asselin: Could it not be left until tomorrow?

Senator Riley: With the permission of the Senate, I would like Senator Michaud's inquiry reinstated on the Order Paper now so that I can move the adjournment of the debate.

● (2110)

Senator Langlois: It has been debated.

Senator Asselin: It is finished.

[*Translation*]

Senator Riley: Not yet.

[*English*]

Senator Robichaud: Honourable senators, on a point of privilege, perhaps the matter was dealt with rather rapidly. I think it escaped the attention of a few honourable senators that the debate on the inquiry introduced by Senator Michaud was to be terminated this evening. Senator Riley, I know, wants to say a few words on this inquiry at a later date, as do I. For that reason, I would ask the indulgence of honourable senators in allowing Order No. 5 to be reinstated.

The Hon. the Speaker: Is it agreed, honourable senators, that Order No. 5 be reinstated on the Orders of the Day for later consideration?

Senator Perrault: For consideration tomorrow.

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

Hon. Senators: Agreed.

The Hon. the Speaker: It is moved by the Honourable Senator Riley, seconded by the Honourable Robichaud, P.C., that this debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Macdonald: Honourable senators, before the question is put, I should like to say I do not agree with the assertion by Senator Robichaud that the debate was concluded too rapidly. I think Her Honour gave adequate notice that the inquiry would be considered debated if no other honourable senator rose to speak on it.

Order reinstated and, on motion of Senator Riley, debate adjourned.

CANADA YEAR BOOK

1974 EDITION

Hon. Paul Desruisseaux rose pursuant to notice:

That he will call the attention of the Senate to the 1974 edition of the *Canada Year Book*.

He said: Honourable senators, this is not a subject of primary importance or one having any priority. I simply want to put forth a few observations on the 1974 edition of the *Canada Year Book*.

There have been many notable and commendable changes to this publication. The 1974 edition was released a few weeks ago. It is our annual review of social, economic and political developments in Canada. Our annual review in this form began in 1905, although there had been issues printed on a sporadic basis from Confederation to that time.

I should like to call attention to the reduction in the number of pages. In 1972 there were 1,600 pages. This was reduced to 950 pages in 1973, and further reduced to 914 pages in 1974.

The quality of the *Canada Year Book* has been improved. The 1974 edition has been intelligently edited and incorporates some excellent innovations. It is educative and in good taste. Having said that, I should like to point out that the last two editions have also changed in format and have placed added emphasis on the use of charts and graphs. There are a number of new chapters, and the one on history now includes a complete background on all of Canada's developments. The chapter on health has been rewritten and made much more informative. There is a chapter on energy, which replaces what was formerly the chapter on the electric power, covering all forms of energy. The new edition also reflects the latest changes in the federal housing programs.

There is a chapter on the Constitution and the legal system, embracing the court structure and law enforcement agencies. There is a newly named demography chapter which incorporates the former chapters on population, vital statistics and migration, and a chapter on family incomes and expenses which, I think, is most useful. There is a chapter on scientific research, which incorporates data on federal expenditures in the areas of natural and human sciences, and activities in those fields conducted by federal and provincial organizations, including economic planning agencies. Finally, the chapter headed "Selected Economic Indicators," summarizes the national accounts. The other chapters have been generally upgraded and streamlined.

The Chief Statistician, Dr. Sylvia Ostry, and her editorial staff, are to be commended for the remarkable editorial improvements and the high quality attained in the latest edition of the *Canada Year Book*.

There are some constructive observations which can be made about the 1974 edition. I believe it can be further improved by updating the charts, the data, and the statistics which, in many cases, are out of date. Because of the great value of the *Canada Year Book*, it is important that the information it contains be as current as possible. It is a very useful volume, and I am continuously making reference to it but I have found that many of the charts are out of date. I realize the difficulty in publishing current data, but there is certainly room for improvement here.

The 1974 edition was issued, as I said earlier, towards the end of 1975 or early in 1976, but it does not contain any information on 1974 proper. I would point out that there

are about a dozen chapters that have no information whatsoever later than 1972. Some of these are on crime reporting programs, police, personnel, provincial government, executive councils, federal commissions, government defence, training programs and operations. Even the chapter on labour has information only up to 1972. There is a chapter on mines and minerals that is updated only to 1972. Another on transportation has a number of references dating up to 1972.

● (2120)

I believe this can be improved, and my purpose in raising the matter tonight is to see whether something can be done, with some work and perhaps some difficulty, to achieve improvement. In my estimation it must be done, and now that computers can be used there are fewer and fewer excuses for not furnishing these statistics. The last chapter, on economic indicators, is excellent; it is updated to recently.

The delays in releasing this book make it obsolete in a way. It is a costly book; I would assume it must cost about $10. I believe it is a most important book, which should be upgraded. The gap between the information it contains and the date of issue is often too large and it does not relay to those who use it what it should.

Senator Bourget: Does the honourable senator not realize that a book such as this cannot contain up-to-date information such as he would like to have? It would be very difficult to prepare such a voluminous book containing all the up-to-date information. That is how I view it. Of course, I am not against what Senator Desruisseaux has said.

Senator Desruisseaux: I honestly believe that the book is issued too late and that much of the information it contains could be related more nearly to the date of its release. I do not wish to ask for the impossible. I am merely trying to prompt the statisticians to produce figures that will help us a little more than those presently contained in the book. I have cited some of the chapters. In that on health and welfare there is information not much later than 1971 and 1972. However, in other chapters there is nothing since the last census. I suggest that, wherever possible, what I ask for should be done, and in that way I believe this book can be improved. We will see what happens next year. They have been going on the right track; I should like to see them continuing in that way and provide us with this information if they have it.

Senator Bourget: I am all for improvement.

[*Translation*]

Senator Lafond: Honourable senators, I think we should congratulate Senator Desruisseaux for calling our attention to this matter. The remarks he made are certainly timely. We have always, at least since my chilhood, considered the *Canada Year Book* as an impressive volume in respect of its binding, typography, printing, etc. Although the format has been changed a little, it is still a well-bound volume, with all the techniques of typography, printing, and so on. However, as emphasized by Senator Desruisseaux, we are living in the computer era; the computer can provide us with the information much more rapidly than the old printing technique.

Then, pursuant to Senator Desruisseaux's remarks, I wonder whether we might not suggest to the people who bring out the *Canada Year Book* to consider a format that would be easier to handle and more in line with the present time.

Senator Forsey: Honourable senators, may I put a question to Senator Desruisseaux? Is it not so that translation requirements do delay the production of such documents to a certain extent? This takes time, I think. On several occasions I have heard from several people who may not have a thorough knowledge of this matter but who are familiar with it that delays are often caused by translation problems.

I shall never object to translation, either from English to French or from French to English. But, all the same, this takes time. The job of the translator is a very difficult one. The work must be done very carefully and there must be as few mistakes as possible. And all this takes time, I believe. I think it is the one of the main causes of this delay which we all lament. But, I shall ask the honourable senator the question: Am I poorly informed or is it a real problem?

Senator Desruisseaux: Honourable senators, of course translating requires time. We have had several occasions to complain about that. But we French Canadians do insist on having a copy in French at the time the English version is published. I think this is logical.

Senator Forsey: I agree.

Senator Desruisseaux: I know there are some important technical problems. But I do not see why they do not give simultaneous translations when they have the English text. They send it out to have it translated and they proceed chapter after chapter, I assume. I do not know. I was in journalism for twelve years. I imagine that is pretty well how it goes. But I think in most cases as soon as an English text is ready, it is sent and translated. On the other hand, if the whole book is sent at the same time to be translated, it would be another reason to complain, but I do not know the procedure used.

My only purpose in talking about it tonight is that for two years I noted the progress made by the *Canada Year Book*, which is our bible, as it were. It is our economic and social bible which depicts the developments that we go through. An effort must be made to do what seems impossible, to provide the most recent information.

Some chapters are perfect. I had noted some, but I misplaced my notes. I could have mentioned them to you. On the other hand, others are pitiful. Of course, the Bureau of Statistics is not to be held responsible. All those providing it with information become involved in a case like this. For example, I do not see why they might not proceed in such a way that when information of a statistical nature is sent to a department—like the Department of Labour, for

example—it is also simultaneously forwarded to Statistics Canada so they can get started on the preparation of the next book. However, it is a lot easier to criticize than to accomplish.

My purpose in making these remarks is constructive; it is to try and advance their procedure, if you want, by challenging them a bit.

● (2130)

[*English*]

The Hon. the Speaker: As no other senator wishes to participate in the debate, this inquiry is considered as having been debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 3, 1976

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

Prayers.

DOCUMENT TABLED

Senator Perrault tabled:

Supplementary Estimates (B) for the fiscal year ending March 31, 1976.

THE ESTIMATES

SUPPLEMENTARY ESTIMATES (B) REFERRED TO NATIONAL FINANCE COMMITTEE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(e), moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the supplementary estimates (B) laid before Parliament for the fiscal year ending the 31st March 1976.

Motion agreed to.

TRANSPORTATION

PACIFIC WESTERN AIRLINES—POSSIBLE MOVE OF HEAD OFFICE TO CALGARY—QUESTION

Senator Austin: Honourable senators, there are reports in British Columbia that Pacific Western Airlines proposes to move its head office from Vancouver to Calgary. This is a matter of some importance affecting employment in our air industry, and it is of real concern to several hundred people.

Can the Leader of the Government advise whether the government will allow PWA to move its head office, and whether representations have been made to the controlling shareholder, which is the Government of the Province of Alberta, with respect to this matter?

Senator Flynn: Have you given notice?

Senator Perrault: Honourable senators, I understand that representations in some form have gone forward from the Province of British Columbia to the Canadian Transport Commission with respect to the recent announcement by Pacific Western Airlines that the company intends to relocate its head office, and ultimately its servicing facilities, to Alberta.

Senator Benidickson: Is it owned by the Province of Alberta?

Senator Perrault: Senator Benidickson is asking whether Pacific Western Airlines is owned by the Province of Alberta. Yes, to a substantial extent that is true. As the majority shareholder, the Government of Alberta, I understand, has taken the position from the date of its acquisition of shares that because, in its view, the Province of Alberta is not "a person," neither it nor its crown-controlled entity, Pacific Western Airlines, is subject to any rulings of the Canadian Transport Commission.

I understand that the matter was taken to the courts and a ruling was handed down approximately two weeks ago contrary to the position taken by the Province of Alberta, that, in fact, the Province of Alberta, for the purposes of CTC legislation and CTC jurisdiction, is "a person" and thus Pacific Western Airlines is subject to CTC rulings and regulations.

It is my understanding that this opinion may well be challenged in a higher court.

Senator Flynn: Of Canada?

Senator Perrault: However, it is the view of the government that the CTC does have jurisdiction over air carriers like Pacific Western Airlines. Consequently, the relocation of servicing facilities from British Columbia to Alberta, so far as it might well affect the efficiency and quality of the service offered to those along routes presently serviced by Pacific Western Airlines, should, in the view of the government, come under CTC review in the ultimate.

I do not wish to comment further because I understand that determination is now being made as to whether or not the jurisdiction of CTC vis-à-vis Pacific Western Airlines and the Province of Alberta is to be carried to a higher court. There is concern, however, at the CTC about the ultimate implications of such a move.

● (1410)

Senator Austin: Honourable senators, the problem is that the Government of Alberta can effect the change of the head office before the CTC proceedings have been carried through and a *fait accompli* might be left on the table so far as British Columbia interests are concerned.

I might point out to Senator Benidickson that this was a shareholder-owned company and the Province of Alberta made a takeover bid for a control bloc, at which time it said it would not affect the operation and management of the airline. That assurance may or may not be carried forward.

I would like the assurance of the government leader that the Province of Alberta will be approached to ensure that it is not directing the management of PWA to make a change in the head office.

Senator Perrault: Honourable senators, I have learned, as a result of conversations earlier today, that there may be further information available with respect to this entire matter by the middle of next week. The concern expressed by Senator Austin is a concern felt, I understand, by the CTC—a concern that, if a move should be effected during the period when the decision regarding the powers of the CTC to regulate Pacific Western may well be referred to a

higher court, the CTC could be faced with a *fait accompli*. The honourable senator has raised a very valid point. I hope to make another statement on it by the middle of next week.

Senator Flynn: Was this matter discussed in the Liberal caucus this morning and, if so, was the Alberta viewpoint expressed?

Senator Austin: Honourable senators, the matter was not discussed in any caucus this morning, and I am concerned—

Senator Flynn: On a point of order, my question was not directed to Senator Austin; it was directed to the Leader of the Government. I cannot ask a question of another senator.

Senator Perrault: Mr. Clark was not in our caucus this morning, so that viewpoint was not available.

Senator Walker: Do you mind if I ask a question now, Senator Austin? Are you through?

Senator Austin: I wanted to make the point that the Province of Alberta has not yet had its purchase of shares approved by the CTC; yet, it seems to be moving the head office to Alberta. That is a matter of very considerable urgency and importance.

Senator Grosart: Honourable senators, we seem to be getting into a debate on a question, which is strictly prohibited by our rules.

Senator Perrault: I rise to defend the honourable senator. The matter which is the subject of questioning this afternoon is an appropriate line of questioning, and I think the Chair would consider it to be so.

Senator Grosart: Except the rules say there shall be no debate, and any second comment, other than a question, is a debate.

Senator Argue: Change the rules.

Senator Bourget: Again!

Senator Argue: They are outdated.

ADMINISTRATION OF JUSTICE

ALLEGATIONS OF INTERFERENCE BY CABINET MINISTERS—QUESTION

Senator Walker: Honourable senators, in view of the very serious allegations against three federal cabinet ministers, Messrs. Lalonde, Chrétien and Drury, by an honourable Justice of the Superior Court of the Province of Quebec, of deliberately interfering with the due course of justice, would the Trudeau government consider the setting up of a royal commission to investigate these charges involving, as they do, a shocking attack on the independence of the judiciary, one of our last bastions of democracy?

Senator Perrault: The honourable senator has often questioned the veracity of press accounts of various incidents which occur on Parliament Hill. I would remind him that the basis of his question is a story which appeared in a well-known national newspaper this morning. The government is concerned with obtaining the facts of the situation as they exist. We do know that thus far the Honourable Mr. Chrétien, President of the Treasury Board, has stated that unless he receives an apology within three days, legal action will be launched against one of the jurists in question.

The honourable senator made reference to there being "three cabinet ministers involved" in this "shocking" allegation. We do know that one of the individuals alleged to be "involved" was not a minister when the incident was alleged to have taken place.

If I may express a personal view, if these incidents occurred in 1969, as has been alleged in the press reports, remarkably, it appears to have taken seven years for the accuser to muster a sufficient sense of outrage to express himself as he is reported to have done in the public reports made available this morning.

Senator Walker: Obviously my friend is not a lawyer. If he were a lawyer he would appreciate the seriousness of these charges. This should be investigated, first, to uphold the honour of the cabinet, which will be difficult because two of its members have admitted making such statements; secondly, and most important of all, because it is a reflection on the judiciary.

Senator Perrault: The honourable senator—

Senator Walker: Just a moment. I know my friend is very anxious. He is a new boy and a new leader.

Senator Argue: Better than being an old boy.

Senator Walker: He has to defend everyone, particularly the Liberal Party. Let me tell you this. If these facts are true—and I have the greatest confidence in the person who makes the allegations—

Senator Denis: Question!

Senator Walker: I am answering the question of the Leader of the Government in the Senate. If it is true—and it is true, or it would not have been made by this distinguished member of the judiciary—you are in really hot water, and I wish you would not palm off this question in the way you do so many other questions, but will go into it and give me the answer. You could not have read the article, because it included all the correspondence between the minister and the judge. It is a shocking thing if any of it is true. Unlike other questions that come up in this house, do not try to palm off this one in that way. We lawyers want to know and want it gone into thoroughly.

Senator Perrault: I appreciate the honourable senator's long and learned dissertation on this subject.

Senator Smith (Colchester): Almost as long as your answer.

Senator Perrault: I want to assure honourable senators that the government is conscious of the necessity of observing the highest legal and parliamentary traditions and the highest standards with respect to this matter. The allegations and accusations will not be allowed to rest on the table. An active investigation is under way at the present time, first of all, of course, to determine the veracity of the allegations that have appeared in the press.

Senator Walker: Naturally.

Senator Perrault: I am sure the honourable senator agrees that a determination of the facts must be basic to any investigation, because he has a profound sense of justice, which he has expressed so many times in this chamber. I assure all honourable senators that the government is aware of its responsibility and is not going to allow the matter to rest. It would be intolerable and untenable under our system of law and under our parliamentary system to allow these allegations and accusations to go unanswered. However, for the honourable senator to suggest that somehow the government is engaged in a "cover-up", or is less than sincere in determining the truth, represents a substantial distortion of the facts, and I hope that he will wish to withdraw these inferences.

Senator Walker: Knowing the number of cover-ups that my friend knows about, I am not going to say anything more.

Senator Perrault: Name them.

Senator Grosart: Order! This is why we have rules against this sort of thing.

Senator Perrault: I will not dignify with a reply the suggestion by the honourable senator that the Leader of the Government here is aware of a number of alleged "cover-ups." I cannot believe that the honourable senator wishes to pursue that kind of baseless allegation. The Senate should be outraged by the impropriety of such remarks. I hope that we can terminate this exchange. Indeed, I am sure that even the senator's honourable leader would never support that kind of arrant nonsense.

Senator Walker: We will leave it where you want me to leave it, but if you want me to name some of them I will.

Senator Perrault: In view of those remarks, perhaps the honourable senator will demonstrate parliamentary courage by going to the front steps outside the Senate and making any allegations against me there, where no parliamentary immunity exists. I challenge him to do so. If he is unwilling to do that, I suggest that he desist from his line of injurious, ridiculous nonsense.

Senator Flynn: I rise on a point of order to try to settle this problem. The Leader of the Government gets excited very easily and then he makes remarks that are completely out of proportion. I would hope that he will soon learn when to sit down and just smile. If he thinks it could be helpful, I will volunteer to give him a lesson after the sitting.

Senator Perrault: We need no lecturing from the honourable senator this afternoon or at any other time.

Senator Flynn: It is quite obvious you don't see the need.

Senator Perrault: I suggest to honourable senators that we do not need anyone standing up in this chamber and sanctimoniously making serious kinds of allegations against any other honourable senator while cloaked in that great mantle of parliamentary immunity. If the Honourable Senator Walker has any serious charges to make against anyone on this side, or anyone in the government, he should have the courage to do it outside of this chamber.

[Senator Walker.]

• (1420)

Senator Flynn: I would suggest that the Leader of the Government is blowing this question way out of proportion. There was no allegation that—

An Hon. Senator: You said "cover-up."

Senator Flynn: Of course, and I will repeat that if you want—"cover-up." I have no hesitation in saying that this government has been trying to cover up many things.

Senator Perrault: Name them.

Senator Flynn: I will if you want me to.

Senator Perrault: All right, go ahead.

Senator Flynn: In this particular instance we are dealing with a serious matter, and I would have hoped that the Leader of the Government would not have tried in a speech to debate it, and especially try to cover up the incident by saying "We are going to investigate it. We are going to do what is necessary. Everybody in the government is deemed to be innocent." That is not true. I do not believe that.

Senator Perrault: Nobody said that.

Senator Flynn: I will not accept that.

Senator Perrault: Nobody has stated that there is guilt or innocence here.

An Hon. Senator: Sit down.

Senator Perrault: It has been stated that an earnest effort is being made to ascertain the facts.

Senator Flynn: How do you know?

Senator Perrault: I want honourable senators to know that very shortly we shall know the facts.

Senator Walker: How do you know?

Senator Flynn: Sit down.

Senator Walker: You are a country boy from the hills of British Columbia and you are out of order most of the time.

Senator Godfrey: Honourable senators, I would like to ask Senator Walker a question.

Senator Flynn: You cannot.

Senator Grosart: Order! Order!

Senator Asselin: No, you cannot ask a question.

Senator Flynn: Your leader would not want you to put your two feet in it.

PROVINCE OF NEWFOUNDLAND

FINANCIAL ASSISTANCE FOR COME-BY-CHANCE REFINERY—QUESTION

Senator Austin: I have another question for the Leader of the Government in the Senate. I would like to know whether the government has had representation from the Province of Newfoundland regarding financial assistance for the Come-By-Chance refinery, and whether this government or the government of the Province of Newfound-

land has a policy with respect to the continued operation of that project?

Senator Perrault: Honourable senators, I must take that question as notice, and I will endeavour to obtain the information as quickly as possible.

TEMPORARY IMMIGRATION SECURITY BILL

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Langlois for second reading of Bill C-85, respecting immigration security.

Hon. George Isaac Smith: Honourable senators, I am not sure whether I am being very prudent in venturing into the rather heated atmosphere to which we have just been subjected. Nevertheless, I do not believe I should put prudence ahead of action, and I will see if I can safely get by.

I would begin by saying the Honourable Leader of the Government in the Senate may well look alert because I shall have to say some uncomplimentary things about this legislation, which he may wish to reply to.

I would begin my comments about this bill by saying that I recognize the dangers the bill is intended to prevent and the responsibility of the government and of Parliament to do whatever can properly be done to ensure the safety of those people from other countries who come to our country to attend the Olympic Games and the Habitat conference, which, as I understand it, is the basis for this litigation.

Of course, we cannot help but remember the terrible incident which occurred at the Olympic Village in Munich in 1972. I am sure we would all be very anxious indeed to do whatever is necessary to prevent the occurrence of any such incident in Canada. At the same time, honourable senators, I suggest that we have a responsibility to ensure that whatever we do is consistent with the principles of decency and fairness which I am sure we all regard as the basis upon which all acts of the government and of the Parliament of Canada must rest.

The problem with which this bill is intended to grapple is a serious and difficult one, which ought to receive the most careful consideration from Parliament. It may be that we have now reached the time when the utmost haste is required in order to enact this bill into law, and to give the minister in question the powers with which it deals. If so, I find it very difficult to know why it has been left until this time. No one can plead surprise.

The date of the Olympic Games has been known for many years. The events of Munich have been known since 1972. The date of the Habitat conference has been known for many months—perhaps even longer than that. The need to afford protection to the people who come to Canada for these two occasions surely also has been known to the minister and his officials and to the government for a long time, for terrorism is nothing new, unfortunately.

I feel I must point out, therefore, that it is most difficult to find any good reason for asking Parliament to pass such a drastic measure as this without its first having the opportunity to consider the matter fully, and without its being constrained by the pressures exerted by the exigencies of time.

Honourable senators, consider for a moment, if you will, the powers this bill would give to the minister. They are contained in clause 2, which reads as follows:

> The Minister of Manpower and Immigration may make a deportation order against any person who is not a Canadian citizen and has not been lawfully admitted to Canada for permanent residence and who, in his opinion, is likely to engage in acts of violence that would or might endanger the lives or safety of persons in Canada or in other violent criminal activity if admitted to Canada or permitted to remain therein.

Obviously no one wants such people to remain in Canada. There is no question about that. But this clause, if I may paraphrase it, gives the minister the power to deport a person who, in the minister's opinion, is likely to do certain things. It should be noted in passing that although the clause refers to the opinion of the minister, it is inevitable that in practice in most cases this would mean the opinion of the officials of the minister's department. Moreover, the clause does not require the minister to have any grounds on which to form his opinion. I repeat that it does not require him to have any grounds. All he needs to do is to form an opinion—although, obviously, he would, as a reasonable person, require some grounds. I emphasize again, however, that, so far as the statute goes, the minister is not required to have any grounds at all. As I have said, all he is required to do is to form an opinion. The minister does not have to disclose the grounds on which he forms his opinion; nor do those grounds have to be reasonable grounds—and, indeed, I understand that the minister has rejected the suggestion that the grounds on which he forms his opinion should be reasonable grounds.

Consider for a moment the kinds of information he is likely to receive and the sources from which that information might come. It might be in the nature of dossiers, information and reports acquired not only by police officials but also by various kinds of informers in other countries. It might originate from adverse political sources in other countries, without being based on fact at all. It might be information which could be and likely would be distorted or coloured by the political opinions of many kinds of people in a variety of countries.

The bill would seem to indicate that there is some sort of protection against an arbitrary wrong decision, in that it states in clause 3:

> The provisions of the Immigration Act and the Immigration Appeal Board Act apply *mutatis mutandis* to this Act.

But what good is the right of appeal, supposing for the moment it actually exists? The minister has only to state that he has formed the opinion that the person concerned is likely to engage in the activities prohibited by the bill. He cannot be required even to disclose the nature of his information, or to say that he has considered certain information and believes on reasonable grounds it is sufficient to justify his opinion.

I can understand, naturally, why the minister should not be required to disclose the source of his information. I accept the argument, and I accept it without reservation,

that to disclose the source of his information might well be substantially contrary to the national interest. I am not advocating, or arguing in any way, that he should disclose the source of his information, or say anything which might in a substantial degree contribute towards disclosing the identity of the source; but he cannot even be compelled to state the nature of his information, or that he believes it, or that he thinks that it is reasonable.

● (1430)

Again I say, honourable senators, that clause 3 of the bill, which apparently purports to convey a right of appeal, does not in fact provide the slightest kind of protection to the person concerned, and does not give the appeal tribunal the slightest opportunity to review the soundness of the minister's decision.

Further with regard to the right of appeal, as I read section 11 of the Immigration Appeal Board Act, as amended by chapter 27 of the Statutes of 1973-74, the only persons who have the right to appeal are permanent residents of Canada, persons in possession of a valid immigrant visa or a non-immigrant visa issued to them outside Canada by an immigration officer, persons who claim they are refugees protected by the convention relating to the status of refugees, signed in Geneva on the 28th of July, 1961, or persons who claim they are Canadian citizens. It does not seem very likely that someone who would be dealt with under the provisions of this bill, a person suspected of being a terrorist, would fall within any of those categories. Therefore, I say that on this ground too—that is, on the ground of the actual existence or possible existence of an appeal—the provisions of clause 3 of the bill really add nothing.

I understand the minister claims that this bill simply extends to certain additional persons the powers he now has to deport persons who are already in Canada. In this respect I understand he refers to the power under what he calls a "section 21 certificate." This must be a reference to section 21 of the Immigration Appeal Board Act. That section provides in certain cases for a certificate signed by the minister and the Solicitor General and filed with the appeal board submitting that in their opinion—and I draw particular attention, honourable senators, to these words—based upon security or criminal intelligence reports received and considered by them, it would be contrary to the national interest for the appeal board to interfere with an order for deportation.

A certificate signed by the minister and the Solicitor General is what is referred to here, stating that their opinion—that is, the opinion of both these gentlemen—is based upon security or criminal intelligence received and considered by them. That is a very different thing from saying that simply because the minister forms an opinion he shall have certain powers. After all, the provisions of section 21 of the particular act—I am not talking now about the bill—at least require some safeguard. They require, I repeat, a certificate signed by the minister and the Solicitor General, stating that in their opinion, based upon security or criminal intelligence received and considered by them, it would be contrary to the national interest to allow these people to stay in Canada.

This procedure at least requires the agreement of the Solicitor General, together with a statement that both ministers have come to a certain conclusion, and that they have come to that conclusion based on a specified kind of report or intelligence which they have considered. It provides some protection and assures that the matter will be considered and certified by a person whose duty it is to see that justice is done, namely, the Solicitor General. Though far from perfect, it is indeed better than being able to act upon the arbitrary, unfettered opinion of the minister.

[Senator Smith (Colchester).]

He said that this is only temporary legislation, because it is provided that it will expire on December 31st, 1976. As I said very shortly after I began, it is my understanding that the minister says that this bill is concerned primarily with threats relating to the forthcoming Olympics and the Habitat conference. Habitat is, I believe, scheduled to end on about June 11, 1976. The 1976 Olympics, I am advised, will be over by July 31, 1976. But the bill provides that it shall expire on December 31, which is at least five months after the Olympic Games have come to an end.

I can understand that in order to protect people coming to Canada for these events—both participants and spectators—it might well be necessary to have the power to deal with dangerous persons who seek entry to Canada before the events in order to plan and arrange whatever act they intend to perpetrate during the events. I can further understand why it is desirable to have the power in this bill effective a considerable time before the events take place. However, honourable senators, it is not easy to see how such people, such suspected terrorists, can be a threat in Canada to participants in or spectators at these events long after the events have ceased, and those who have come in either capacity have gone home again. Thus I cannot see the necessity for the minister's retaining these powers after all who have taken part in the events, or who have come to see them, have left Canada.

I submit, honourable senators, that this bill represents dangerous legislation in that it would give arbitrary power to a minister without providing any protection whatsoever against the abuse of such power, or the manner in which such power may be exercised. I am not alleging that whoever may happen to be the minister to exercise these powers will do so in bad faith or without appropriate ability. I simply say that even if it were the ablest minister or the most experienced judge in the land, I would still not want him to have these powers.

I accept the necessity for special protection against persons who might try to gain entry into this country to draw attention to themselves or the causes they espouse by committing terrorist acts in circumstances which would give them the maximum publicity—the type of publicity which normally attends Olympic Games and which can be expected to attend the Habitat conference. But I submit, honourable senators, that in trying to protect against these dangers, we should also try to ensure as much as possible that there is a limit to the arbitrary nature and the duration of these powers to the greatest extent possible without interfering with their effectiveness.

I believe there are three ways in which this legislation can be improved. The first is that it should require the minister to have reasonable grounds for his opinion. By that I do not mean that he has to prove to the world that he has reasonable grounds, but the legislation should ensure that he has such reasonable grounds. The question as to

what would constitute reasonable grounds is something to which he would need to devote his attention in making his decision. So far as inserting this condition into the bill is concerned, it could be done quite simply by writing in the words "on reasonable grounds" after the words "in his opinion" in clause 2. Such an addition, I would think, would tend to make the minister's officials more careful.

The second improvement would be to require a certificate signed by the minister and the Solicitor General stating, in the words of section 21 of the Immigration Appeal Board Act, that in their opinion, based upon security or criminal intelligence reports received and considered by them, it would be contrary to the national interest to allow a particular person to enter. There is nothing in this particular requirement which would tend to disclose the source or even the nature of the information upon which these two gentlemen would act, except the requirement that it should come from a security or criminal intelligence source, which would constitute some sort of guarantee that it had a certain degree of validity, and that they had considered and exercised their judgment on the reports which had come to them from such a source.

● (1440)

The third improvement, I submit, would be a shortening of the period during which the legislation is to be in effect. As I have indicated, it seems to me that, in order to achieve the stated purpose, it need be in effect no longer than it is necessary to protect the participants and spectators at the two events in question during the time of those events, and during whatever reasonable period of time thereafter is necessary to allow those people who are going to leave the country to do so. This, I believe, would allow an expiration date of at least as early as August 31—a date which I understand would allow all participants plenty of time to be out of Canada, and which, in any event, would ensure that there was no gathering of people, no events in a certain place, which would supply the terrorist with the kind of publicity he wants.

In closing my remarks, I once more say that it seems to me that this is a dangerous type of legislation. I am prepared to support legislation which gives the minister powers which are necessary to deal with such special circumstances as it may be necessary to meet. Also, in my opinion, the bill which is before us can be improved in the fashion I have mentioned—that is, by making it necessary for the minister to have reasonable grounds for his opinion, by requiring a certificate signed by the Solicitor General, and by terminating the legislation at the earliest reasonable date after the participants in the two events have had an opportunity to leave Canada.

I do not oppose second reading of this bill, but I suggest that after second reading it should be referred to committee with a view to making these or other improvements.

Senator Croll: Would the honourable gentlemen permit a question?

Senator Smith (Colchester): I shall do my best with it.

Senator Croll: Is the honourable gentleman aware that for 100 years, until the establishment of the Immigration Appeal Board, the Minister of Immigration held all the arbitrary powers which it is now proposed to give him? I do not recall his ever being seriously charged with misusing them.

Senator Flynn: Do you want us to go back 100 years?

Senator Smith (Colchester): My memory is not as long as that of the honourable gentleman, but I am aware that for a considerable number of years those powers have been subject to appeal.

Senator Croll: Well—

Senator Flynn: No, no; do not argue.

Senator Croll: I am not arguing at all, but merely indicating that for 100 years in this country there was no appeal. There was opportunity for appeal under the Immigration Appeal Board Act. During that time the minister had all the powers, and I do not recall ever hearing any charge of misuse. Why should we now suspect that those powers would be misused during these six months?

Senator Smith (Colchester): My more specific answer is simply that it was decided some years ago that it was unsafe to leave these powers without appeal. The situation has not changed, and if it was unsafe at that time it is unsafe now. As I say, my memory does not go back as far as that of some, but I remember the decisions under the Immigration Act being the subject of controversy from the time of my earliest knowledge of that act.

Senator Forsey: Hear, hear. There has been case after case in the courts.

Senator Flynn: Yes, when Senator Croll was the supporter of civil liberties.

Senator Buckwold: Honourable senators, I wonder if I might say a few words with respect to this bill?

Senator Rowe: I have a question for Senator Smith, if Senator Buckwold would yield for a moment.

While listening to Senator Smith's well reasoned, in my opinion, arguments—although I do not support them all—two questions occurred to me. One is that his suggestion that a month's grace be allowed to the minister or to the authorities strikes me as providing a little too short a period in any case. I think we have to face the real possibility that there will be serious attempts by undesirable elements to get into Canada during the period of the Olympics, when there will be a great opportunity to enter this country illegally. However, is a month not too short a period for the cleaning up, so to speak? There is the possibility that these undesirable elements will immerse themselves in the populations of our large cities, or in various parts of the country, Canada being so vast. Would it not be better to provide for a period of several months?

It seems to me from recollection that most special acts of this type are almost by formula terminated at the end of the calendar year, but not with any intention of invoking their provisions right up to that point in time. However, it seems to me that there is a practice of terminating legislation of this type, which is temporary and brought in at a specific time during the year, at the end of the calendar year.

Senator Smith (Colchester): In reply to the honourable senator's first question, I suppose it is really a matter of judgment as to how long after the events have ceased

people might want to stay here. However, as I understand the object of the legislation, it is to prevent terrorists from entering Canada in order to carry out terrorist acts at Habitat, which ends on June 11, if my information is correct, and at the Olympics, which will be over by July 31. This legislation is not designed to deal with undesirable elements who may remain in Canada after those dates.

Senator Rowe stated that it is customary for temporary legislation to terminate at the end of the calendar year. I am not aware of any such custom, although I certainly would not dispute what he said. However, even if there is such a tradition, I submit that this is not the type of legislation which ought to be allowed to exist for longer than is absolutely necessary for the carrying out of its stated object, which is to prevent terrorist acts at the Habitat conference and the Olympic Games.

Senator Connolly (Ottawa West): Would the honourable senator agree that it is not only on entry that the deportation order can be made? In my opinion, the language of the section is sufficiently wide to indicate that the deportation order can be made in respect of persons not excluded by the section at any time by the minister while the act is in force. In other words, it could be made against people who have secured entry and who still may be guilty of an offence.

Senator Smith (Colchester): That is the whole basis of my objection. I am saying that once the stated object has been met—namely, the prevention of terrorist acts at these two attractions for terrorists—the ordinary law is sufficient to deal with any problems in the same manner as it is at present, and as it will continue to be afterwards.

Senator Connolly (Ottawa West): But it is not restricted to entry.

Senator Smith (Colchester): No, that is my point. If you read the arguments made by the minister in the other place, you have to come to the conclusion—at least, I did—that the object of the legislation is to achieve just what I said, and not to achieve some other object for which the ordinary law has been considered sufficient over the years.

Hon. Eugene A. Forsey: Honourable senators, I thank Senator Buckwold for giving way to me, although I fully expected that he would proceed.

I rise to support very strongly what Senator Smith has said. I am very uneasy about this legislation. Like Senator Smith, I am in full accord with the essential purpose of it, but I think it is legislation which has very serious features which are of questionable desirability, if I might put it in almost "Mackenzie Kingly" terms. I can't help feeling that this is another case of a "simple bill", words which are graven upon the heart of the Honourable Senator Laird. Everybody who was present when he introduced that "simple bill" some time ago will recall, I think, that it turned out to be far from a simple bill and needed some very careful examination in committee, which it got, with generally satisfactory results.

● (1450)

As I looked at this bill and at the proceedings in the other place, it seemed to me that they had been far too quick about the thing in the other place, far too easy about it, and that this was one eminently suitable opportunity for the Senate to give a little sober and considered second thought to this legislation.

[Senator Smith (Colchester).]

I can't help feeling that the substance of what Senator Smith (Colchester) said by way of objection can be summed up in the words *mutadis mutandis* in section 3:

> The provisions of the Immigration Act and the Immigration Appeal Board Act apply *mutatis mutandis* to this Act.

I looked at the Immigration Act and I looked at the Immigration Appeal Board Act and I found section after section after section where I couldn't help asking myself, "How would this apply with this new legislation; what exactly does *mutatis mutandis* mean?"

You could always say, with respect to a particular section, "Well, this is really wiped out by this new legislation," and to another, "This isn't wiped out." But this would require very careful consideration, in my judgment, and explanations from officials in the department who are familiar with the working of the thing and could tell us the precise effect of this in relation, for example, to section 7(1)(c) of the Immigration Act, section 11(2) of the Immigration Act, section 14, section 24, sections 30 and 31; and sections 11, 13, 18 and 21 of the Immigration Appeal Board Act.

There appear to be, on the face of it, at least to the lay eye—and I am fortified in my doubts by the expert opinion of Senator Smith—a number of cases where the effect of this is obscure and where it is necessary the thing should be cleared up.

We are told this is very urgent legislation, and no doubt it is, but I don't see that it is so very urgent that we couldn't afford to send this bill to a committee and give a day or two's consideration to it there with the minister and the officials present to explain to us the precise effects.

If this bill is not passed today, the roof is not going to fall in, terrorists are not going to come swarming in the day after tomorrow. The events which it is supposed to deal with are still some distance in the future, and I frankly cannot see any reason why this has to be rushed through in one day, which is apparently the intention—certainly it was rushed through in one day in the other place, a very dubious proceeding and one which I am surprised that that vigilant defender of the rights of Parliament, Mr. Stanley Knowles, did not take strong objection to.

The last time that I can recall when this kind of thing was done at breakneck speed was an amendment to the Immigration Act in 1919 to deal with the Winnipeg strike. It took a great many years to get that off the statute books, because, of course, it wasn't a temporary measure like this. But I think it was generally admitted by nearly everybody, and by most people very soon after the passage of that legislation at breakneck speed, that it was a mistake to have done that.

I think this is something that should have further consideration. I think an eminently suitable place to have that consideration is a committee of this house, presumably the Legal and Constitutional Affairs Committee. And I am the more anxious that this should take place because of something in the speech of the Deputy Leader of the Government yesterday, which so far no one has commented on.

Well, I suppose nobody has had very much chance, seeing that only Senator Smith has spoken. Perhaps Senator Buckwold is going to take this up.

There is this passage at page 1820 of yesterday's *Debates* of this house:

> During the current year the government intends to present Parliament with new legislation dealing with immigration which will embrace the concerns of this temporary bill.

Well, I don't know what "embrace the concerns of this temporary bill" may mean, but if the intention is to bring in some permanent legislation, something of the same sort, then I think the sooner we examine what is being done here the better, and the easier it will be for us to deal with the permanent legislation when it comes along if we have already cleared up what effect this kind of legislation would have upon the existing acts, the Immigration Act and the Immigration Appeal Board Act.

I very much hope that the government will see its way clear to sending this bill to a committee where it can be examined with the care and the detail, and with the precision and exactitude, which it seems to me to require.

Hon. Sidney L. Buckwold: Honourable senators, I will not express an opinion as to whether the bill should go to a committee. That, presumably, is something for the powers that be on the government side to determine.

Senator Flynn: No, no—the Senate.

Senator Buckwold: Or the Senate. But I do want to express some personal opinions on this bill because I think that in the expressions of those who have just spoken—and I refer to Senator Smith (Colchester) and Senator Forsey—the real implication has evaded them. These are terrible times and very horrible things are happening in this world. Senator Smith has indicated that this is dangerous legislation. I suggest that these are also very dangerous times, and I submit that the gentlemen who have spoken, and I think very wisely, have disregarded—

Senator Flynn: No.

Senator Buckwold: —the fact that there are conditions today that did not exist in previous times.

Senator Flynn: Not at all.

Senator Forsey: No, no.

Senator Flynn: Unfair.

Senator Buckwold: I do not think that is unfair. The exigencies of the situation today are such that immediate action must be taken by a responsible minister.

Senator Flynn: He has said that.

Senator Buckwold: I say immediate action, and that action must be taken in a few minutes if neccessary. For those of us who have been made aware of some of the nefarious activities that could go on in this country as a result of the influx of persons to international events of great magnitude—and I refer to Habitat and the Olympic Games, and other events—such action on the part of the minister is imperative. The eyes of the world will be on Canada during this next while, and there is no doubt that people somewhere are plotting as to how they can achieve international notoriety by some outlandish and horrible act.

I suggest to honourable senators that the government has responded to this in the only way it could by giving the minister the opportunity to have those people thrown out, deported, at once—

Some Hon. Senators: Hear, hear!

Senator Buckwold: —without having to go through the whole procedure. I agree that this is for a limited period. I do not think it would be the intention of the government to have this as a permanent feature.

Senator Forsey quoted the Deputy Leader of the Government as saying that in the future this will embrace the concerns of the government on immigration. I am not sure what the minister will be embracing, but it may be more than concerns.

I suggest that if we listen to Senator Smith, who gave us three suggestions—namely, that the source of information should be literally made available.

Senator Smith (Colchester): No, I did not.

Senator Buckwold: I am sorry. You used the words "reasonable grounds". Certainly the minister will have reasonable grounds. It will not be because he does not like someone's name or what somebody says. Certainly there will be reasonable grounds. Secondly, he suggested that it should be signed not only by the minister but also by the Solicitor General, which again could result in a very significant delay at a time when minutes can be precious. Thirdly, he suggested that the period be shortened, and I appreciate the remarks of Senator Rowe that there could be some months of follow-up activity as a result of the presence in this country of people who are undesirable, and that could lead to very serious consequences.

My honourable friends, I suggest that the times are such that legislation like this is needed. It is emergency legislation because the times are emergency times. I submit that the bill be dealt with in the light of the things that I have brought to your attention and not considered as part of a laissez-faire attitude, that everyone must be given their due course. I say this because things are different, when we talk about terrorism in the world today.

● (1500)

Senator Smith (Colchester): Perhaps the honourable senator might permit a question. Why do you say that the two suggestions I made—that there be reasonable grounds, and that there be a requirement for a certificate signed by the Solicitor General—would result in any serious delay taking place?

Senator Buckwold: I can envisage a telephone call and an action in two minutes if the information is such that the minister feels that it is important for the safety and security of this country, or visitors to this country, that action be taken. That is how desperate the situation could be. That is the very purpose of this legislation. If not, there are other procedures that could have been followed in order to achieve this end, had we wanted to allow the normal processes to take their slow course. I suggest that the emergency is such that this bill is required to meet it.

Senator Forsey: May I ask the honourable senator a question? He talks about the delay involved in getting a

certificate from the Solicitor General, and he seems to imply that if one of these undesirables presents himself at a port of entry, in the absence of this legislation he can be whisked through before you can say "Jack Robinson". Surely, that is not what happens at a port of entry.

In the days when Newfoundland was a separate country, I used to have to go through immigration procedures when I came into Canada from Newfoundland, and I can assure the honourable gentleman that there was no business of my whizzing through—and I was only a youngster at the time, only a minor, an infant in law. There was no business of my whizzing through before you could say "Jack Robinson". These people have to be examined.

There is a telephone call and all that, but I cannot understand the idea that before the man is off the telephone line, this terrorist will be at large and rushing up to the Olympics in Montreal. Surely he is not telling us that that is the way the ordinary procedures of the Immigration Department are carried out. I never heard of such a suggestion in my life. Surely the length of time that it takes for the Minister of Manpower and Immigration to walk from his office in this building to the office of the Solicitor General—which, I believe, is in the West Block—is not going to cause disaster, red ruin and combustion, and the breaking up of laws. Surely he is not suggesting that this is the kind of procedure—lightning speed procedure, one-fiftieth of a second, or one one-millionth of a second, computer speed procedure—that goes on when people seek admission to this country?

Senator Walker: Question.

Senator Buckwold: I do not know what the situation was when Newfoundlanders were foreigners. It may be—

Senator Carter: They still are.

Senator Buckwold: It may be that, as a babe in arms, Senator Forsey had difficulty in convincing the immigration officer—

Senator Forsey: Answer the question.

Senator Buckwold: —that he was not here to destroy the country.

I would just point out that there might be times when it would be difficult to get the Solicitor General. He may be out of the city. He could be anywhere. I am certain this was very carefully considered by those who drafted the bill. It was determined that there could be an emergency situation where even that kind of delay could result in loss of life or serious damage taking place in this country.

Senator Smith (Colchester): I wonder if the honourable senator would permit another question? Would not the person about whom the inquiry is being made, or in respect of whom the fear is held, be in custody in any event?

Senator Forsey: Of course he would.

An Hon. Senator: No.

Senator Buckwold: Not necessarily. This is not necessarily going to happen when someone is at a port of entry. They could be in the country, and they should be removed very quickly.

I am sure Senator Langlois, in closing the debate on second reading—

[Senator Forsey.]

Senator Flynn: The list is already drawn up. These individuals will not be identified by the immigration officers at ports of entry. The list has already been prepared. The certificates could be signed in advance by the Solicitor General, or his deputy. We have to be realistic about this.

Senator Buckwold: I very much appreciate the assistance given me by the Leader of the Opposition. It is very helpful.

Senator Flynn: You needed it.

Senator Buckwold: It was very helpful. Again, I do not want to wind up the debate on second reading. I think I have made my contribution. I feel quite strongly on this. I do not think there is a real appreciation on the part of some honourable senators with respect to the emergencies that could arise.

Senator Flynn: No, no.

Senator Smith (Colchester): On a point of privilege, I think I might be permitted to say that it seems to me there is no realization of the necessity of preserving individual liberties on the part of the senator who has just spoken.

Senator Forsey: On a point of privilege, honourable senators, I wish to point out that both Senator Smith (Colchester) and I were very careful indeed to say that we saw the necessity of some legislation of this sort. We were not saying everything is normal; that this is the nineteenth century. We were most careful to preface our criticisms with a most explicit admission of the grave circumstances and grave dangers which are present. I strongly object to the suggestion that I, at least—and I think Senator Smith (Colchester) may want to make the same objection—was unaware of the gravity of the times and that we were, in effect, trifling with this subject.

An Hon. Senator: Let's get on with the job.

Hon. Léopold Langlois: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Langlois speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Flynn: Make it short.

Senator Walker: Adjourn it.

Senator Langlois: Honourable senators, after the lengthy and numerous exchanges which have taken place between both sides of the house, there is little left for me to say.

When I introduced this bill last evening, I underlined that it applies to two categories of persons, namely, persons at ports of entry wishing to come into Canada and persons who are already in Canada but known to be persons who would likely engage in criminal activities in Canada. This bill does not concern itself with normal, well-intentioned visitors to this country; rather, it is aimed at dealing with terrorists.

Senator Smith (Colchester) expressed surprise that this bill was introduced on the eve of the two important international gatherings which are to take place in Canada in the course of this year. However, I wish to remind honourable senators that international terrorism on a world scale is a new phenomenon. Until recently, we had not

experienced events such as those which took place in Munich in 1972, or which have been taking place in many other parts of the world involving kidnapping and murder. It is a new brand of terrorism, something to which we have not been accustomed. It is in the face of such reality, bearing in mind the two important international gatherings which are scheduled to take place in Canada in the course of the year, that this legislation was introduced.

I share Senator Smith's (Colchester) concern that such a bill should be introduced, bearing in mind the principles of fairness and justice. All bills should be introduced in that kind of spirit. However, notwithstanding that there is some possible danger inherent in the application of this legislation, we have to view it in the light of the type of terrorist activities that are taking place the world over. In my opinion, it would be far more dangerous not to have this legislation in order to deal with such events which could occur in our country during the coming months.

Senator Smith also raised a point in connection with the expiry date of this legislation, December 31, 1976. The Minister of Manpower and Immigration covered this point in his speech on the motion for second reading of this bill in the other place. If I may, I should like to read from page 11288 of the *House of Commons Debates* of February 26, where the minister said:

● (1510)

> This is emergency legislation, but we have made the commitment—and I feel very definitely that the commitment will be met—that we will be placing before this forum the more profound immigration bill and new policies which are being developed now. Unquestionably, this area of concern will have to be dealt with. I want the House to have the opportunity to deal with it in a broader context than this particular situation permits, or the time or emergency permits, and indeed I want to bridge that period but with a definite expiry date which is December 31, 1976. With this time-frame and these conditions and events, we had in mind the setting of the date. We looked at 60 days, or even precisely the end of the Olympics. We felt we needed a clean-up period—

This was covered, I think, by some honourable senators this afternoon.

> —and thought it would be wise to provide for the other bill to come in, at which time the matter in broader context than this will be placed before the House.

I think this also covers the point raised by Senator Forsey. He alluded to my remarks last night, when I made a brief reference to the coming piece of government legislation, the new Immigration Act, and I said this:

> During the current year the government intends to present Parliament with new legislation dealing with immigration which will embrace the concerns of this temporary bill.

Having these conditions in mind, and also the fact that a new Immigration Act will be introduced later on in the year, and because we need a clean-up period after the Olympics, nobody would, I suggest, venture to work on the assumption that as soon as the Olympics end all those undesirable persons are going to walk out of the country on the same day. There might be some cleaning up to be done, and we want the minister to have the power and be able to carry out this obligation of ours.

I now come to the assertions that were made this afternoon with reference to the Draconian powers contained in this bill. Again I should like to refer the Senate to what the minister said in the other place, at page 11285 of the Commons *Debates* of February 26, 1976:

> I already have the power, Madam Chairman, arbitrarily at my discretion, to deport persons after they have been admitted to Canada. As the act now reads, at the border, at the port of entry, it requires our officers, who would not be in possession of this evidence for reasons already placed before you, to admit in the absence of a reason not to. So I would be in the silly position of having to let a person in and then having to trump up or find a reason later to apprehend him and turn him around. But I can do that now without appeal, so there is no change whatever in the appeal structure.
>
> This power, which bothers all of us—this question of arbitrariness—already exists in another form, too, in our immigration law, and that is in the application of section 21 of the act. Even where the appeal right does exist, as it does now for landed immigrants, for refugees, for Canadian citizens where there is a doubt about their papers or the validity of their claim to citizenship, and for non-immigrants with a visa, we can and still do—and unfortunately have had to in some 40 cases in the last eight or nine years—submit to the Immigration Appeal Board what we call a section 21 certificate, which in fact is a guillotine on the use of the Immigration Appeal Board's compassionate and humanitarian jurisdiction. It is based totally on a statement by the Minister of Manpower and Immigration, with the co-operation and collaboration of the Solicitor General, that evidence available to us of a security and intelligence nature indicates that this person should not be granted that compassionate jurisdiction because of a threat to the security—criminal, subversive or terrorist—of the state.

On the same page he went on to say—

Senator Smith (Colchester): I wonder if the honourable senator would permit me to ask a question at this point.

Senator Langlois: Would the honourable senator be kind enough to allow me to read this quotation from the speech of the minister in the other place?

Senator Smith (Colchester): Certainly.

Senator Langlois: He said:

> As I say, Madam Chairman, the principle has been established. One can argue that it is Draconian, but it exists in almost every state in the world that I know of. In Britain the Home Secretary has more Draconian powers than those I am asking for here. The same applies in the United States, I believe in Sweden, and I think in all countries that we are inclined to agree fit into our pattern of democratic, civil libertarian traditions. We are certainly not stretching beyond that.

Your question, please?

Senator Smith (Colchester): I was going to ask the honourable senator if he would agree that the provisions

he just read with reference to the certificate of the Solicitor General are not precisely what I suggested?

Senator Langlois: Yes, indeed. The honourable senator must bear in mind what the minister said about the application of section 21. He called it a "guillotine." I do not know what additional safeguards this could give. As I said at the beginning of my remarks, we are not dealing with bona fide visitors to this country. We are dealing with well-trained terrorists who are about to come into our country, and we are turning them out at the border, at the port of entry. If the honourable senator is ready to take the chance of waiting for a certificate from the Solicitor General, who might be out of the country, or at the other end of Canada—

Senator Smith (Colchester): The man is in custody.

Senator Langlois: —before this man is prevented from coming into the country, he will find that on many occasions the country is full of terrorists before such certificates can be obtained. As the honourable senator himself pointed out, we have to be realistic, because we are not dealing with ordinary, well-intentioned visitors. We are dealing with future visitors who are intending to come into Canada to commit criminal acts. Surely such a person would not cross the border carrying a banner saying, "I am a terrorist from such-and-such a part of the world, and I want to come into Canada to create disturbance, to create trouble." We will have to be very, very alert and ready for action.

Senator Smith (Colchester): Perhaps the honourable senator would permit me another question. In order to make the deportation order effective, is it not necessary to have the person in custody?

Senator Langlois: In custody?

Senator Smith (Colchester): Yes. How are you going to deport him if you do not have him in custody?

Senator Langlois: How can you arrest a person who is not admitted to Canada? He is still at the border; he is not in Canada.

Senator Smith (Colchester): We are talking about deportation orders.

Senator Langlois: We call it deportation because it would also apply to visitors who have already come into Canada. The main purpose of this legislation is to prevent these people from coming into Canada, to stop them at the border before they are admitted to this country.

Senator Smith (Colchester): That is right.

Senator Langlois: That is why alertness and the possibility of immediate action is absolutely necessary to deal with this kind of person.

I pass now to the suggested amendment of Senator Smith, which was also proposed in the other place. Although the honourable senator did not give the wording of his amendment, I assume it is similar to that proposed in the other place, an amendment suggested to clause 2. It purported to add the words, "on reasonable grounds" after the words "who, in his opinion," to make it read:

● (1520)

> —who, in his opinion, on reasonable grounds, is likely to engage in acts of violence—

[Senator Smith (Colchester).]

These words were to be added to clause 2.

The minister's reason for turning this suggestion down was that he had consulted lawyers in this respect, he had sought legal advice, and had come to the conclusion that for good reason he could not accept this amendment.

As I underlined yesterday, the information upon which the minister could be called to act would be information obtained from very sensitive and often protected sources, and which could not be divulged without exposing the security of the country.

Senator Smith (Colchester): I am not asking him to expose anything.

Senator Langlois: Honourable senators, one does not add words to a clause for the sake of adding words. In practice, the minister could be asked to divulge and explain his "good reasons." Then he would not be able to put his "good reasons" forward without divulging the source of his information. That is exactly why he objected to the amendment in the other place.

Senator Smith (Colchester): That is not what I am saying.

Senator Langlois: If the minister is called upon to justify his actions, how would it be possible for him to act on the spur of the moment, so to speak, at the time the man presents himself at the port of entry? If we add this provision to this piece of legislation, I am afraid we might completely destroy the possibility that the minister might have of acting promptly and in good time.

There were some other amendments which have been dealt with through exchanges which took place this afternoon between honourable senators. I do not think it necessary to deal with them. They have also been dealt with in the other place, as senators who have read the *Debates* of the House of Commons know.

I now pass on to the remarks made by Senator Forsey, who mentioned that this was not a simple bill. No one on this side of the house, or on the other side of the house, has made such an assertion either yesterday or today. It is not a simple bill. It is a short bill but it is a bill which is complicated enough. It is not my intention to treat it as a simple bill.

Senator Forsey also made reference to clause 3 of the bill which reads:

> The provisions of the Immigration Act and the Immigration Appeal Board Act apply *mutatis mutandis* to this Act.

When I introduced this bill last night I said this bill did not affect in any way the existing laws of Canada. It does not affect any right that may exist in certain cases. We are not changing the existing laws of Canada. Any person who may feel aggrieved or limited in his freedom of movement in Canada due to this legislation can afford himself of any other legal recourses now existing in this country. Again I state, we are not changing any existing laws of Canada. The Immigration Act would apply *mutatis mutandis*, if it is applicable to a particular case.

Senator Forsey: In what case?

Senator Langlois: We may have a visitor to Canada with a visa, and probably in a case of that kind—I am not an expert on immigration law—there might be some provision

of the Immigration Act which applies to him. We are not changing that. We are not taking anything away from the existing legislation which deals with persons entering Canada with a visa, persons coming to Canada as landed immigrants or, for that matter, any resident of this country be he a Canadian citizen or not.

Now, the following question was asked by Senator Forsey and Senator Smith (Colchester), "Why are we pressing for this litigation at this time? The Olympic Games are still three or four months away. Why are we so anxious to have this legislation passed by Parliament?" As I explained last night, there are preventive measures which must be taken now. We cannot wait until the Olympic Games have started in Montreal to take those steps. I must add that at present the Immigration Department and the law enforcement agencies are very much on the alert in order to prevent the entry into Canada of would-be terrorists. It is for this reason that the government wants to have this legislation on hand.

Senator Forsey: Today?

Senator Langlois: In the House of Commons, by agreement of the parties, the debate took about two hours.

Senator Forsey: I said, do you have to have it today?

Senator Langlois: Not today. When I discussed this very matter last evening with the Leader of the Opposition outside the house, I reminded him that in the other place the bill was discussed in Committee of the Whole. It was not referred to a standing committee of the house but studied in Committee of the Whole in the presence of the minister. I asked the Leader of the Opposition if he wanted to proceed in the same manner in this chamber. I stated that if he wanted to have this bill studied in Committee of the Whole with the minister present in the Senate, I could make arrangements. However, I would have had to make them last night so we could deal with this bill today. I did not pursue that any further because the Leader of the Opposition was to contact me and give me his reaction to my suggestion. He did not call back.

This morning, however, having this in the back of my mind, I made some inquiries as the possibility of the minister's being present this afternoon at a Committee of the Whole. I was told the minister was out of the country; he was in Europe on a very important trip and would not be available this week. I do not know when he will be returning. It is likely he will not be available for a good part of next week.

It is unfortunate that we are in this position but, as I stated earlier, this bill was thoroughly discussed in the other place and with Commons agreement it was passed within a matter of hours.

I am at the disposal of honourable senators to answer any question they want to put forward. I am entirely in the hands of the Senate, of course, but I would urge that this bill be not sent to a committee. If we could have had the minister present in Ottawa this afternoon, we probably could have arranged for a committee meeting tomorrow morning with the minister present, but apparently we have missed this opportunity.

I would urge honourable senators to give consideration to my suggestion of disposing of this bill this afternoon.

Senator Forsey: Honourable senators, may I ask one further question? When the deputy leader was referring to a proposed amendment in the house, I may have failed to catch what he said in full but I do not think he read part of the amendment which was suggested there, which would have covered this point about revealing sources. If he will look at page 11285 of the *Debates* of the other place for February 26, he will find near the top of the first column, that the mover of that amendment not only said "on reasonable grounds," but would have added the words:

● (1530)

> Nothing in this section shall be deemed to require the production before any court or tribunal of any sources of information whose disclosure the minister certifies would be prejudicial to the security of Canada.

I venture to suggest that that might cover this question of revelation of sources which seemed to disturb so considerably the mind of the honourable deputy leader—and I think with reason. That particular amendment, if it could be considered in Committee of the Whole or by a standing committee of this house, might dispose of the particular difficulty he had in mind.

Senator Langlois: I am sorry if I omitted to quote the whole amendment as moved in the other place by Mr. Brewin. My honourable friend is correct in asserting that the additional paragraph he just quoted was added to the original motion so that the words "on reasonable grounds" would be added to clause 2.

In the debate which followed the introduction of this motion in the other place, however, I believe the point was made that if the minister were required to establish the reasonable grounds, inevitably he would have to divulge the information, thus giving the source of information, which was exactly the position the minister took in the other place. He said that if he were called upon to do that he might well be prejudicing the security of Canada.

Senator Forsey: Surely there is a distinction between the information and the source of the information.

Senator Langlois: The point is that if you give the information there is a grave danger that the information itself will divulge its source.

Senator Flynn: I rise on a question of privilege, honourable senators. The honourable deputy leader mentioned that he had not obtained any answer from me with respect to whether the bill should go to committee. As far as we on this side are concerned, the speech which Senator Smith (Colchester) gave this afternoon contained the answer.

Senator Langlois: I was speaking of last night.

Senator Flynn: But I am referring to today.

Senator Langlois: I am sorry you were not present, senator, but in your absence I said that I had telephoned you last night, suggesting that if it was your intention, and that of your colleagues, to have this bill sent to committee, or to Committee of the Whole with the minister in attendance, I could make the arrangements then—that was last night. I said that, as I understood it, the agreement was

that you would return my call on that. Because you did not call me last night, I could not make the arrangements last night, but this morning, with that conversation in mind, I checked to see whether the minister would be able to be present today, but I was informed that he had already left for Europe.

Senator Flynn: But I told you last night that someone on our side would adjourn the debate, and that I would let you know our position as soon as I had consulted my colleagues.

Senator Langlois: You realize that I was not putting any blame on you at all.

Senator Flynn: Yes. I simply wish to make it clear that in my opinion you have had an answer, albeit this afternoon.

Senator Langlois: Yes, but by then it was too late.

Senator Flynn: It was too late for the minister, perhaps, but surely not too late for his officials.

Senator Langlois: Incidentally, I would not wish to imply that even if I had been able to contact the minister last night I could have delayed his leaving. I am simply making the point that in any event it was too late this morning when I thought of taking action on the matter, because he had already gone.

Senator Flynn: Send it to committee, then.

The Hon. the Speaker: It is moved by the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, P.C., that this bill be now read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Forsey: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

Senator Langlois: With leave, honourable senators, I move that the bill be read the third time now.

Senator Flynn: No, no. Why not send it to committee? At least we can have the officials of the department to explain the procedure. There is no justification for refusing to send the bill to committee.

Senator Grosart: Certainly not. It should go to committee.

Senator Flynn: If no one else will, I will move that the bill be referred to the appropriate committee—whichever committee the deputy leader chooses for me. Would he suggest the Standing Senate Committee on Legal and Constitutional Affairs, or perhaps the Standing Senate Committee on Health, Welfare and Science?

Senator Lamontagne: Science Policy.

Senator Grosart: Surely it should be the Standing Senate Committee on Foreign Affairs.

On motion of Senator Langlois, bill referred to the Standing Senate Committee on Foreign Affairs.

[Senator Langlois.]

SCIENCE POLICY

SPECIAL SENATE COMMITTEE—NOTICE OF CANCELLATION OF MEETING

Senator Lamontagne: Honourable senators, before we proceed to the next item on the Order Paper I wonder if I may have leave to make a brief statement.

Hon. Senators: Agreed.

Senator Lamontagne: Honourable senators, I wish to announce that owing again to unforeseen circumstances—perhaps due to lack of forward planning of this house—the meeting of the Special Committee of the Senate on Science Policy which was scheduled for 3.30 this afternoon has been cancelled.

NATIONAL DEFENCE ACT AND CRIMINAL CODE (TOTAL ABOLITION OF CAPITAL PUNISHMENT)

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Argue, seconded by the Honourable Senator O'Leary, for the second reading of the Bill S-23, intituled: "An Act to amend the National Defence Act and the Criminal Code (total abolition of capital punishment)".—(*Honourable Senator Prowse*).

Senator Petten: Stand.

Senator Flynn: Until next fall!

Order stands.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Keith Davey moved the second reading of Bill C-58, to amend the Income Tax Act.

He said: Honourable senators on both sides of this house will be pleased that this is a non-partisan, non-controversial issue which will be presented in a most low-key way by an obscure and non-partisan backbencher.

Senator Flynn: The reason for your choice.

Senator Davey: Honourable senators, in closing the debate which followed the tabling of the report of the Special Senate Committee on Mass Media, I made the following remarks:

> Magazines are special. Magazines constitute the only national press we possess in Canada. Magazines add a journalistic dimension which no other medium can provide: depth, wholeness and texture. Magazines, because of their freedom from daily deadlines, can aspire to a level of excellence that is seldom attainable in other media. Magazines, in a different way from any other medium, can help foster in Canadians a sense of themselves.

Magazines are more important, I would suggest, in Canada than in most other countries. I think it is fair to say that without this legislation there is not one national Canadian consumer magazine the prospects for survival of which are certain. Simply stated, Bill C-58 amends section 19 of the Income Tax Act by deleting from it subsections

(2) and (4). The effect of these subsections as they stand is to accord to certain foreign magazines, of which the most important are *Time* and *Reader's Digest*, advantages in the field of advertising which are otherwise reserved to Canadian magazines and denied to all other foreign magazines. Canadian firms advertising in Canadian magazines are allowed, in calculating income tax, to deduct the cost of those advertisements to the extent of 100 per cent. Under the present law they can do the same with the cost of their advertisements in *Time* and *Reader's Digest*, which are foreign magazines. Bill C-58 also adds a subsection to section 19 to the same effect:

● (1540)

> —for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking.

I propose to examine the bill in more detail, but I would first offer some background to the Senate.

The problem which the government finally intends to deal with has been around for a long time. In 1922 the Canadian Magazine Publishers' Association sent a telegram to each member of Parliament requesting tariff protection, an initiative which precipitated a national debate on the subject.

In 1931 the Bennett government imposed a tax on foreign periodicals based on their advertising content. Circulation of American magazines dropped off, and that of Canadian magazines rose. United States publishers began to jump the tariff wall and set up subsidiaries in Canada. In 1935 the Mackenzie King government removed that tax and most of the American subsidiaries closed shop. In 1943, *Reader's Digest* established a subsidiary in Montreal and *Time* began printing a Canadian edition in Chicago. In 1956, the St. Laurent government imposed a 20 per cent tax on the gross advertising revenue of Canadian editions of foreign magazines.

In 1957, the Diefenbaker government repealed that tax, and then established the Royal Commission on Publications—the O'Leary Commission.

In 1961, the O'Leary Commission recommended measures to ensure that Canadian magazine advertising dollars go to support Canadian-owned magazines. The Diefenbaker government proposed to implement the recommendations. The American State Department opposed the proposals. In 1962, *Time* established an editorial office in Montreal.

In 1965, the Pearson government made advertising in Canadian editions of foreign magazines non-deductible for corporate tax purposes. *Time* and *Reader's Digest* were exempted in spite of the O'Leary Commission's recommendations that they be included.

In 1971, the report of the Special Senate Committee on Mass Media said that the 1965 legislation should have included *Time* and *Reader's Digest*. As you know, in 1975 the Secretary of State announced that he would introduce legislation to end the exemption.

The nub of the issue, honourable senators, is advertising revenue, and the simple fact that Canadian editions of American magazines have an unbeatable head start in the battle for advertising revenue. Editorial material attracts circulation, which in turn attracts advertising. The Canadian editions of American magazines get most, if not all, of their editorial content free of charge. Doris Anderson, the editor of *Chatelaine* magazine said it well in a recent letter to the *Globe and Mail*, which I quote as follows:

> One of the major problems is the fact that 95 per cent of all magazines sold on Canadian newsstands are foreign imports; that in addition to this overwhelming competition two of the most powerful magazines in the world have enjoyed a special status as Canadian magazines. This means they have been able to import most of their editorial material at little or nominal cost from the parent publication and then compete for advertising against Canadian magazines who must start from scratch with 100 per cent original Canadian material.

The advertising dollar revenue really tells the story well. In 1950 the total advertising revenue for magazines in Canada was $9.9 million. *Time* and *Reader's Digest* between them had 28.3 per cent of that total. By 1968, which was the base year used in the special Senate Committee on Mass Media study, the figure had risen to $24.1 million, and *Time* and *Reader's Digest* had 56 per cent of that. In 1974, the last year for which I have been able to find information, $39 million was spent on magazine advertising in Canada, and *Time* and *Reader's Digest* between them had 48.2 per cent of that revenue.

Let me put it differently to explain it to you. From 1950 to 1974 *Time's* Canadian advertising revenue was up 800 per cent. The comparable figure for all other Canadian magazines was 185 per cent. Not surprisingly, annual circulation figures reflect this same reality. From 1950 to 1973, *Time's* circulation in Canada rose from 6.2 million annually to 26 million, an increase of 319 per cent. The annual circulation of all other Canadian magazines went from 36.1 million to 50 million, up 32 per cent.

Senator Walker: Excuse me. Would my honourable friend answer a question? When did *Time* start publishing its Canadian edition?

Senator Davey: I think I said that *Time* began printing a Canadian edition in Chicago in 1943.

Senator Walker: Thank you.

Senator Davey: The deletion of subsections (2) and (4) from section 19 of the Income Tax Act will leave four main criteria for determining whether advertisers may deduct their costs for tax purposes.

First, to qualify as Canadian, a periodical must be printed, published and edited in Canada.

Secondly, it must be 75 per cent owned by citizens of Canada.

Thirdly, the periodical may not be published under a licence granted by someone who publishes a magazine outside of Canada.

The fourth criterion, as contained in section 19(5)(a)(ii)(F), which states that if a periodical's contents are substantially the same as the contents of one or more foreign periodicals it is not a Canadian issue, has occasioned much controversy.

Honourable senators, the fact is that since 1965 this rule has been fully applicable to most foreign periodicals circulating in Canada. Of course, the press in the interim has

remained free and unfettered. The government has not, and the government will not, determine content for periodicals. Magazine content, to qualify a magazine as Canadian, does not necessarily have to be written by Canadians or on Canadian subjects. I think that is extremely important. It must, however, be different from foreign counterparts. In fact, a periodical which contains not a single story by or about Canadians could still qualify for advertising tax benefits under section 19, so long as that content is not substantially the same as that in another periodical.

The purpose of this was clear: it was to prevent widespread importation of editorial material marginally altered for appearance's sake to qualify as Canadian content. It is not unusual for Ministers of National Revenue to give interpretations on tax matters, and so, not surprisingly, the minister has given an interpretation of what is meant by "not substantially the same." He has decided that the content of a Canadian magazine is not substantially the same as that of a foreign issue if the combined editorial and pictorial content is at least 80 per cent different. In my opinion any lesser percentage would allow foreign periodicals to continue to dump editorial material into Canada. Presumably, of course, this interpretation could be appealed to the courts.

There has been a great deal of press hysteria about this particular point. Probably the chief agent of that hysteria has been the *Globe and Mail*. Honourable senators will recall the clear conflict of interest that I suggested the *Globe and Mail* was involved in when editorializing against Bill C-58. The publisher of the *Globe and Mail* is the chairman of the board of FP Publications. Not only, as reported in FP newspapers from coast to coast, did FP try to negotiate a deal with *Time* Canada, but FP owns 24 per cent, and likely effective control, of Ronald's Federated, a company which prints *Time* and *Reader's Digest*.

With your forbearance I can only repeat one paragraph from a letter I sent to the editor of the *Globe and Mail*. I said:

> To compare this, as you do, to the government moving in to regulate how much New York *Times* wire service copy should be carried in the pages of the *Globe* is simply absurd. The two situations have nothing in common. A truer comparison would be if *The Wall Street Journal* had decided to launch a daily to compete with your Report on Business, threw in four or five Canadian stories, but took away half your advertising. I wonder if your editorial would have taken a different line in such circumstances.

● (1550)

There is one other interesting footnote about the *Globe and Mail* as far as this particular issue is concerned, and I would like to quote from a column written by John Slinger in the Toronto *Sun* of December 23:

> Been a bit of a commotion over the weekend at *The Globe and Mail* which, normally, will have no truck with arbitrary measures. Seems the *Globe* got a copy of a letter sent to Prime Minister Trudeau by 35 local writers, photographers and whatnots who depend for a bit of their living on selling material to Canadian magazines. The letter supported the government's legislation to banish *Time* magazine. Four of the people who signed the letter write for the *Globe*, two on a full-time basis. They are Christina Newman, Martin Knelman, June Callwood and Jack Batten. In signing the letter, these people were taking a line directly opposed to the Globe's editorial line. An agent of the Globe's editor, R. J. Doyle, had to phone each of the four and ask if they would delete their names so the letter could be printed in the paper. It was an absurd request, since the letter had already gone to the prime minister, and the four, quite sensibly, refused.

[Senator Davey.]

I am grateful to one of the people who signed that letter for sending me a copy, and I would like to read it into our record. It is, as I said, to the Prime Minister, and it says:

> Dear Sir:
>
> As writers, photographers and artists who consistently depend on magazines for a portion of our livelihood, we heartily endorse Bill C-58. We believe that Canadians are worth writing for and about and that they will support magazines that reflect their lives and their society.
>
> Once Bill C-58 has passed, Canadians will welcome *Time* and *Reader's Digest* in their genuine role, as foreign publications. Canadian magazines will, for the first time in 30 years, have the opportunity to compete for advertising dollars, unhampered by the kind of cultural dumping which has limited their ability to flourish and grow.

That letter is signed by 35 people, including the four I mentioned.

This legislation, honourable senators, which in my judgment is at least as important as the Canadian content regulations of the CRTC, has worked in the past, is working now, and will work in the future. In 1967, the American business press giants were poised, set to pounce into Canada. Their intentions were thwarted by the legislation I referred to at the time and, as a result, as honourable senators know, we have in Canada today a big, vibrant commercially successful and editorially excellent business press. Even since this legislation was announced, we have a Canadian news magazine which, it is to be hoped, will become a weekly once this bill is proclaimed. Perhaps in passing it should be noted, their huge readerships aside, that *Maclean's* and *Chatelaine* did not make a profit in 1974 or in 1975.

I think it is also perfectly fair to suggest that the prospect of this legislation had much to do with the revitalization of *Saturday Night*. As well as that, honourable senators, to my certain knowledge, there are several other Canadian magazines ready to become operative as soon as we have created the necessary commercial climate with the passage of Bill C-58.

Time Canada did indicate its willingness to meet the bill's ownership requirements, but apparently in any restructuring of ownership one prominent partner was to have been Thomson newspapers. In other words, honourable senators, *Time* Canada and Thomson newspapers would propose to concentrate even more fully the Canadian mass media structure. Because the government chose to ignore one of the central recommendations of the Senate Committee on Mass Media, the call for a Press Ownership Review Board, a staggering 89.8 per cent of Canadian daily

newspapers are now involved in some form or other of common, group or concentrated ownership—89.8 per cent. This should be a matter of grave concern to Canadians.

I shall not expand further upon this point but shall leave the subject by quoting with approval the late A. J. Liebling who wrote in the *New Yorker:*

> Diversity and the competition it causes does not insure good news coverage or a fair champion for every point of view but it increases the chances.

Unlike the United States, honourable senators, we have, at last and at least, disentangled the cross-ownership of print and electronic media. It would be regrettable, it seems to me, to replace that kind of cross-ownership with a cross-ownership of Canadian daily newspapers and news magazines.

There are as well, I believe, editorial reasons for repatriating *Time*, and with your forbearance I should like to quote a passage from the Mass Media Committee's report which I think sums up this particular situation rather well. Honourable senators who were members of that committee with me will recall this passage, I am sure.

> Geography, language, and perhaps a failure of confidence and imagination have made us into a cultural as well as economic satellite of the United States. And nowhere is this trend more pronounced than in the media . . .
>
> We are not suggesting that these influences are undesirable, nor that they can or should be restricted. The United States happens to be the most important, the most interesting country on earth. The vigour and diversity of its popular culture—which is close to becoming a world culture—obsesses. alarms, and amuses not just Canadians, but half the people of the world.
>
> What we are suggesting is that the Canadian media—especially broadcasting—have an interest in and an obligation to promote our apartness from the American reality. For all our similarities, for all our sharing, for all our friendships, we are somebody else. Our national purpose, as enunciated in the B. N. A. Act, is "peace, order and good government", a becomingly modest ideal that is beginning to look more and more attractive. Their purpose is "the pursuit of happiness", a psychic steeplechase which has been known to lead to insanity.

An article which appeared in the December 1974 issue of the *Canadian Journal of Political Science*, I thought, put the question rather well, and perhaps I might quote from the conclusion of that article:

> In light of over-all policy on mass media, is there any justification for allowing *Time* and the *Reader's Digest* to engage in by product circulation in Canada? Does their contribution to Canada provide such a justification? There seems to be no singular contribution made by the Canadian editions of *Time* and the *Reader's Digest* that could not be made by allowing Canadian editions of *Business Week, Newsweek, Playboy* or *True Confessions*, which are restricted to overflow circulation. On this basis there is no consistent reason for exempting *Time* and the *Reader's Digest* from government policy. Their preferred status under the Income Tax Act reflects the influence on Canadian political decisions that these publications have exerted or have had exerted on their behalf.

Honourable senators, I commend this particular article. It is entitled "Interest-Group Tactics and the Politics of Foreign Investment: The Time-Reader's Digest Case Study," by Professors Litvak and Maule of Carleton University and you will find it in the *Canadian Journal of Political Science* of December 1974.

I concede here today, as I have conceded in many other places and on many other occasions, that *Time* has provided us over the years with an excellent window on the world, but, as I have also said repeatedly, it has been a window with American-tinted glass.

This morning at the Ottawa airport I purchased the new, the March 8, issue of *Time*. Although it is the United States edition, it does contain yet another letter from the president of Time Canada Ltd., Stephen S. LaRue, and I should like to draw the attention of honourable senators to several passages in this letter. As I say, this is in the American edition and I am curious to find out if this particular letter is in the American edition circulating in the United States. Mr. LaRue says in the letter:

> Canadian readers will now receive the U.S. edition of Time. Though it will continue to contain Canadian advertising, the magazine will no longer contain a Canadian editorial section.

● (1600)

Neither in this issue—which, as I say, is the American edition, and on sale on the newsstands here today, and which is proof positive that *Time* will still be available once this legislation is proclaimed—is there anywhere in the news content any reference to Canada. Apparently nothing of consequence happened in Canada last week and nothing much is expected, because when we look down the masthead we find not a single reference among reporters in cities all over the world to anyone in any Canadian city, even Ottawa.

I should like to read further from Mr. LaRue's letter:

> From that beginning, *Time* Canada evolved into the most distinctive of our separate editions and became a valued voice in Canadian journalism.

That is what Mr. LaRue says. I think it is only fair to observe that *Time* Canada was also the most profitable of all *Time*'s separate editions. No doubt that underlines the report which some of you read, I am sure, in this morning's *Globe and Mail* in the Report on Business section, as follows:

> With the March 15th issue, advertisers in Time magazine in Canada will buy their advertising space at less than half the rate charged before the passage of Bill C-58—

I would suggest that *Time* Canada has been on to a pretty good thing indeed.

Again, in his letter, Mr. LaRue says:

> Its editorial staff of 33 covered Canadian political, economic and cultural affairs for Canadians and regularly prepared and published Canadian cover stories.

Well, as far as cover stories go, I can do no better than quote Geoffrey Stevens, himself a former employee of

Time magazine. He told us in a recent column what can and does happen, and I am sorry that I do not have the date:

> Two weeks ago, Time Canada's plans to run a cover story on the Ontario election were over-ruled by an assistant managing editor in New York who insisted Canadians should find Patty Hearst on the cover. That's intolerable.

That is Geoffrey Stevens saying it is intolerable.

Then finally, with respect to the question of the *Time*'s editorial policy in this country, I would like to quote the prestigious *Christian Science Monitor* in one of its February 1975 editions, in which it says:

> Ottawa proposes not to expose Canadians to fewer foreign ideas but to ensure that they have the option of reading more Canadian ideas. The government, concerned mainly with protecting the financial health of the bona fide Canadian magazine industry, would eliminate only *Time's* Canadian edition.
>
> This edition, which is sold to Canadian advertisers as a Canadian magazine, contains about five pages of content actually written and edited in Canada. The balance is editorial material lifted directly from the U.S. parent edition—a practice described in some other industries as a form of dumping.
>
> Foreign publications of every stripe and nationality may circulate in Canada, providing they do not carry Canadian advertising. There are no tariff barriers or covert hindrances to the flow of information, ideas and even pure propaganda into the country—if unsupported by Canadian ads. If the Canadian edition were eliminated the parent edition of *Time* could circulate freely in Canada on the same footing as any other foreign publication.

Honourable senators, I think it should be a source of pride here that this legislation owes its genesis to the work of one of our most illustrious colleagues, Senator Grattan O'Leary. Here is perhaps the most oft quoted passage from his celebrated report:

> Only a truly Canadian printing press, one with the "feel" of Canada and directly *responsible* to Canada, can give us the critical analysis, the informed discourse and dialogue which are indispensable in a sovereign society.

The committee which I had the privilege to chair simply endorsed the principle expounded earlier and much more eloquently by Senator O'Leary. There was at this point in the report one voice of dissent. It was the voice of my gracious co-chairman, Senator Beaubien. Perhaps I could speak about that dissent. Here is the way we handled the matter in the report:

> At this point we must take note of a dissent—the only one in our entire report. On every other point we were unanimous; the only issue on which the Committee was divided was its recommendation with regard to *Time* and *Reader's Digest*. Fourteen of us agreed. But Senator Louis Beaubien disagreed, and the rest of us respect his right to do so. Indeed, we are anxious to have his dissent on our record.
>
> Senator Beaubien is in full accord—

I hope he still is.

[Senator Davey.]

> —with the desirability of helping the home-grown industry. He feels, however, that cancelling the exemption under 12A of the Income Tax Act would produce small benefits compared to the economic dislocation of the employees, shareholders, and others connected with *Time* and *Reader's Digest*.

Honourable senators, I prefer—I did then—the logic which was stated clearly in an editorial in the Montreal *Gazette* of Wednesday, March 5, 1975, which reads as follows:

> Certainly Canadians have an opportunity with the two Canadian editions to fill a wide range of jobs. But they work for American superiors implementing made-in-U.S. policy on editorial content. To intimate that all these jobs would be lost to Canada if the Canadian editions were terminated is simply an expression of no confidence in Canadians' ability to produce their own publications if afforded a fair commercial opportunity.

Honourable senators, obviously, by their very nature, magazine digests require special consideration. The *Reader's Digest* is a case in point. The government has announced that the "80 per cent different" rule on content can be met by this magazine's increasing its Canadian content, and if articles obtained from its U.S. parent are edited and/or condensed in Canada. The *Reader's Digest* must also, however, meet Canadian ownership requirements. A similar exemption was created in 1965 for periodicals whose principal function was the encouragement of the arts, letters, scholarship and religion. For exactly the same reason this exemption must also be removed. There are now competent Canadian magazines in most of these areas and, no doubt, others would be available and prepared to fill any voids. Incidentally, there is one such foreign magazine, *Modern Medicine and Medical Digest*, virtually operated by Southam Business Publications Ltd., which could, apparently, meet all the criteria simply by changing its ownership to 75 per cent Canadian, and I understand that such a change is under way.

Now, as has been pointed out repeatedly, after the legislation passes, *Time* magazine, for example, will still be able to circulate freely in Canada, but it will enter the country for what it really is, an American magazine like *Newsweek*, *Harper's*, *McCall's*, the *Ladies' Home Journal*, and hundreds of other American magazines which freely circulate in this country. However, we should be clear on one thing, that even with the passage of this legislation the Canadian magazine industry is in trouble. It faces another problem of staggering dimensions—the overflow circulation of American magazines, foreign magazines flooding into this country, chiefly American magazines, competing no longer for advertising revenue, but competing for circulation dollars, for readers' time and attention, and, incidentally, flooding the country with American mores.

The dimension of this flood of foreign magazines, chiefly American, coming into this country is seldom appreciated. It is estimated that currently Canadians purchase 150 million American magazines annually, compared to 50 million Canadian magazines, which is a ratio of three to one. It continues to be a depressing statistic that Canadians spend more money annually on *Playboy* than they do on the 17 largest Canadian native magazines altogether. Canadians

purchase twice as many copies of *True Story* as they do of *Saturday Night*.

● (1610)

We are the beneficiaries in this country of more than 100 million American comic magazines each and every year. This is a problem to which some of us will certainly have to address our attention. It is a very difficult problem. Most of us, and I am one, read and enjoy a great many of those magazines—

Senator Flynn: *Playboy* especially!

Senator Davey: —and I certainly agree that there must be a free flow of information. I would not want to set up any form of cultural iron curtain. I do not know what is the solution. It is an extremely difficult problem. Sooner or later some government will have to come to grips with the problem. Perhaps the answer lies in postal surcharges or legislation relating to magazine distribution. I do not know. Meanwhile, this legislation, Bill C-58, will at least even out the competition and put on our newsstands Canadian magazines which can compete on merit with American productions.

Before discussing briefly the broadcasting dimension of this bill, may I suggest that the choice is extremely clear. A few may agree with the following editorial which appeared in the Fredericton *Gleaner* on January 27, 1975:

> No Canadian news magazine will ever be comparable to *Time*. No Canadian news magazine will ever have the resources, the hundreds of correspondents around the globe, the spit and polish of *Time's* professional staff. *Time* will still come to Canada in its American edition. People cannot do without it. And the fact that its Canadian section is dropped will not deter its subscribers from buying it. For Canadians do not want a news magazine that is strictly Canadian.

However, aside from that editorial's obvious errors in fact, most honourable senators will prefer the logic of that illustrious Toronto Progressive Conservative, Richard Roehmer, who said recently in a speech, I believe, to the Young Men's Ad and Sales Club:

> *Time* has a special tax exemption in Canada and with it goes a special responsibility. That responsibility is to editorially reflect Canada and the Canadian viewpoint. This it fails and refuses to do. Instead, as it grows richer and more arrogant in Canada, it insists on shoving the American point of view at all its readers in Canada.
>
> It is time that *Time*, the most nationalistic publication in the most nationalistic country in the world, was given the opportunity and the incentive to be repatriated. Canadians could still subscribe to *Time*. *Time* might even choose to print its editions in Canada. But it would be read for what it is and not what it today pretends to be in order to make the big buck out of those "taken-for-granted" Canadians whose country is rarely even mentioned in the *Time* U.S. edition.

And we have seen that in its edition today. Mr. Roehmer completed his remarks by saying:

> I am a Canadian citizen and taxpayer concerned with the culture and goals of this nation, not anti-American, but rather for my country.

Although the bill's broadcasting component has received much less attention than its magazine component, I believe it is equally important. The principle is exactly the same. Canadian advertisers who now pay in excess of $20 million annually to American television stations will no longer be able to claim this as a deduction when computing their income tax.

This particular principle, I am proud to say, was, first expounded in the Senate Committee's report on Mass Media. It began with the following observation about television advertising, found at page 207 of the report:

> We may reflect, however, that if commercials are not the finest flowering of the television art, they at least represent one kind of pinnacle. They are, for the most part, the ultimate in presenting a totally false picture of reality. We are all familiar with examples: the toothpaste that makes people blow kisses to you; the hair oil that makes the gals pursue you; the tonic that transforms your wife from apathetic drudge to a hot-eyed temptress; the constantly screamed message that if you will only consume something, your pimples will vanish, your stomach and head and feet and back will cease to ache, your sexual life would be the envy of Haroun al-Raschid.

We then went on to say:

> Canadian broadcasters, particularly television broadcasters, are also faced with competition from across the boarder. In some fairly notorious cases, the competition comes from stations deliberately created to live off Canadian advertising, and not designed to provide any service to the United States communities in which they are nominally licensed. It has been argued, and we believe correctly, that without the existence of KVOS in Bellingham, Washington, Vancouver could support a third television station... There is also substantial penetration of the Hamilton-Toronto area by the three commercial Buffalo stations... as well as the situation in Windsor, Ontario, where there are five commercial U.S. television signals available... from transmitters directly across the river, in Detroit.
>
> It seems, in any case, that the growth of Canadian television service in areas penetrated by U.S. television signals is likely to be impeded unless Canadian advertisers are given some motivation to keep their money in Canada. Also, it may be noted that certain Canadian laws or regulations—those dealing with food, drugs and alcoholic beverages, for example—may be avoided if advertisements are placed with American rather than Canadian stations, a practice we feel is not in the public interest. We recommend the extension of Section 12A to cover Canadian advertising placed with American broadcasting stations.

Honourable senators, shortly after our report was tabled in the Senate, the CRTC made an identical recommendation to the government.

In our report we were extremely critical of private broadcasting. We said:

> For many years, the Canadian Association of Broadcasters has been the voice of private broadcasting in Canada, and we were particularly interested in what

this organization had to contribute to our study of broadcasting and its place in the fabric of Canada's mass media. With reluctance, we were driven to conclude that the private broadcasters, no matter how sophisticated their individual thought, seem by group interaction to achieve a level perhaps best decribed as neanderthal.

Much, I am happy to say, has happened in the interim. The Canadian Association of Broadcasters, under the leadership of its chairman, Allan Waters, and its president, Dr. Pierre Camu, has finally begun to move into the twentieth century. Thus it is refreshing to quote with favour from a Canadian Association of Broadcasters' document, which says:

> In countries like Canada which assign frequencies to privately-owned, commercial broadcasting companies, dependent on the sale of advertising for economic survival, there is a requirement that licensees must provide a high level of service to their community as a condition of their exclusive use of a part of the public domain: i.e., the frequencies assigned to them. Unlike American border stations, Canadian licensees have the responsibility under the Broadcasting Act "to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada".
>
> In determining the number of broadcasting stations that could be licensed for a specific community, one of the factors that the Canadian Radio-Television Commission must consider is the number of stations that the advertising revenue from that community or region could support. The CRTC's concern for each licensee to be able to live up to the level of service required by the licence demands that the Federal Government, the CRTC and broadcasters act to prevent broadcasters not licensed by the CRTC from taking advertising revenues in Canada. The loss of such revenue undermines the Canadian broadcaster's ability to produce in quantity, popular, high quality entertainment programming.

I can only say "exactly."

Of the $20 million involved annually, $17 million represents national advertising revenue and $3 million is local advertising revenue. Nine million dollars of this money is spent on the three Buffalo stations, and it is estimated that about $7 million has been spent on the Bellingham station. The annual growth rate of these figures is reported to be 15 per cent. For example, the three Buffalo stations derive 30 per cent of their revenue from a market they were not licensed to serve, from a market served by Canadian stations playing under altogether different and more stringent ground rules.

There are two cogent arguments against this legislation as it relates to broadcasts. One is that Canadian companies could be penalized versus their multinational competition whose U.S. affiliates could still purchase time on U.S. stations. But it seems to me that this is an ongoing problem which exists anyway, and, although I may be naïve on this point, I think that some multinational corporations in Canada are sensitive about their self-imposed standard of Canadian corporate citizenship. The more persuasive argument is that most Canadian television stations are now sold out most of the time anyway, so why penalize the national advertisers?

[Senator Davey.]

● (1620)

The government has taken this argument into consideration, but has not as yet set a date for implementation of the broadcasting provisions of this legislation. Personally, I think they should be implemented immediately. In Toronto, both CITY television and the Global Television Network are beginning to attract audiences, but neither one is getting sufficient advertising, and certainly none of the Toronto stations are 100 per cent sold out 100 per cent of the time.

The problem of purchasing television time in Vancouver has been somewhat more difficult, but a third station will soon be on the air and no doubt that will be the time to fully implement this legislation.

It is to be hoped that much of this revenue will find its way into Canadian broadcasting, public and private, to help offset the financial incursions of cable and that the CRTC will ensure that broadcasters so benefiting will use at least some of that revenue to improve the quality of their service.

Honourable senators will no doubt want this bill referred to committee and, if so, perhaps it will be possible for the committee to deal with it expeditiously and, at the same time, hear some of the people who did not have an opportunity of appearing before the committee of the other place. In this connection, I should like to read from a letter I received from the Canadian Periodical Publications' Association, as follows:

> Criticisms of the Bill have received widespread coverage, while those of us who have supported this legislation have been rarely heard.

Hon. David Walker: Honourable senators, Senator Davey is a great friend of mine and it was wonderful to hear him lay it on the line, as he sees it, by referring to one newspaper after another—but he has lost the whole point. *Time* came in, of course, in the 1940s, at which time it had no advertising. It was a new magazine. When he compares its percentage increase in advertising from nothing up to a phenomenal figure, that would be so with any magazine. Until we had the Canadian editions of *Time* and *Reader's Digest*, we had no magazine industry in this country which was viable as advertising media for the advertising market. The magazine industry in Canada was in a slump. It was in such a slump that when Senator Davey chaired the Special Senate Committee on Mass Media in 1971, the Canadian Magazine Bureau would not have anything to do with it, except to come to oppose the taking away from *Time* its right as a Canadian magazine, namely, to sell advertising, the cost of which could be deducted by the advertisers for income tax purposes.

Reader's Digest, by the way, has been poleaxed, or put out of the way for the time being. Hog-tied though it is, it is not going out of existence; it will continue to exist. For that reason, I shall not talk about *Reader's Digest* today.

Time, however, is the greatest influence in Canadian news magazines that we have ever had, and everyone knows that. Who here, for instance, would read *Maclean's* magazine? In contrast, it is as dull and unoriginal as Tom Sawyer is to a modern reader. As far as being a news

magazine, it is a farce. Let's be frank about it. We all know that. Why don't we admit it?

Is the Canadian public not entitled to what it wants? Approximately 98 per cent of the Canadian public, according to the polls, wanted both *Time* and *Reader's Digest* continued on the same basis of operation as at the present time. Surely the view of the Canadian public should be considered in this case, rather than the view of the small elite group for which Senator Davey speaks. They are the only people who want it. The newspapers do not want it. I do not know of any newspaper in Canada that wants this legislation. There may be some and, if so, I stand to be corrected. The only people who really want this are Maclean-Hunter Limited, that gargantuan publishing company, and Toronto Star Publishing Limited.

Let's be realistic about this. On February 25, after Bill C-58 received third reading in the other place, *Time* announced it was pulling out. Why? The answer is that the Senate has never refused a House of Commons bill in the last 13 years, that I remember. Thanks to people like Senator Hayden and his committee, and other committees, they have been amended, but none has been refused. So *Time,* rather than wait for passage of the bill through the Senate, just stopped publishing in Canada.

I hope that will not affect honourable senators in voting on this bill. I shall be asking for a vote on this measure so that those opposed and those in favour can stand and be counted.

Time magazine is gone; it is poleaxed; it is executed. No more will we have a modern news magazine. Maclean's has been making huge efforts during the last year to show that it could fill the bill, but we can see how hopeless those efforts have been.

How did this all come about? The seven-year campaign by Senator Davey is largely responsible for it, first, as Chairman of the Special Senate Committee on Mass Media, when he failed to get action—the recommendations of that committee, so far as *Time* and *Reader's Digest* were concerned, were pushed under the table—followed by another campaign, urged on now by the fact that Toronto Star Publishing Limited, a company with which he has been associated, and his father before him, for over 50 years—

An Hon. Senator: Come on!

Senator Davey: Senator Walker, I have never been associated with the Toronto *Star*.

Senator Walker: I know. You have said that before, but you act as a PR man in connection with the Toronto *Star* all the time.

Senator Davey: Senator Walker, that is not correct, and I am sure you would want to be correct. That is not a fact.

Senator Perrault: Withdraw it.

Senator Walker: Well, if my friend says that is not correct, I will withdraw it, because he is a man of honour at all times.

The Mass Media Committee was a failure as far as this aspect was concerned, so the whole thing has been put together again and he has induced—I would say that it was he; I do not know who else would do it—he has induced the Honourable Hugh Faulkner, Secretary of State, to introduce Bill C-58, and if he did not, I give my friend the honour and invitation to name who did.

The next point I want to make is that with the Cabinet now, what Davey wants, Davey gets, and he can very well sing that old refrain, "Come what may, I will get my way." And so far he has. The bill has passed the House of Commons after the most formidable opposition. It took almost nine months to get through—a tremendous amount of time—but through it is, and Senator Davey had his way. I think you all should be proud of having such an influential man over there, a man who can act with such consummate skill.

Reader's Digest, in spite of Senator Davey, got a reprieve. Canada got a reprieve, too, in 1812 at the Battle of Chateauguay, from the French Canadians. So did the Canadian edition of *Reader's Digest* this time. They didn't realize down there in Quebec what a formidable character Senator Davey was, and they didn't realize what formidable opposition *Maclean's*, MacLean-Hunter and the Toronto Star are. They said, "No; no; no," and "no" it is. *Reader's Digest* has been spared. It has been spared to come again another day; it will continue to be published. Why? Because it is the greatest French Canadian magazine in Canada today, an outstanding contribution to our Canadian culture and literature.

Time almost made a deal. It was willing to comply with a 75 per cent Canadian shareholding, which is going a lot farther than many American companies would, and agreed that 50 per cent of its content be Canadian. What sort of news magazine would it be with 50 per cent of its content Canadian? There is not enough news in Canada to make 50 per cent of a magazine such as *Time* Canada. It would be dull reading, I suggest, with the greatest respect. That was the figure suggested by the National Revenue Department in an earlier case. But, prodded by Senator Davey, prodded by Mr. Faulkner, prodded by the new Minister of National Revenue, they were not satisfied with that. They wanted them out of business. They wanted them out once and for ever, so they put it up to 75 per cent Canadian content. And, of course, naturally *Time* moved out.

● (1630)

We get all the Canadian news from *Time* at present in six pages. It is wonderful news. You might think I had a brief for *Time*. I do not even know *Time*. My only connection was that I once telephoned the president and threatened to sue him for a client of mine, and he withdrew and apologized very nicely. I have not heard from him since. I do not know anything about them.

Senator Buckwold: Obviously.

Senator Walker: Thank you very much. That was very clever. I used to think you were a wit. Now I know I was only half right.

Senator Croll: You have used that one before.

Senator Walker: But it is very appropriately placed, isn't it?

Senator McElman: You are an authority.

Senator Walker: There is my friend from New Brunswick again. It is very nice to hear him. However, I wish he would speak up because I cannot hear him, and he will appear in print without any answer.

Senator McElman: I was saying that your inference concerning Senator Buckwold comes from an authority.

Senator Walker: That is right, and I put you in the same class if you are making me an authority.

Hugh Faulkner is either obtuse, hard-boiled or frightened of the mass media czar, Senator Davey. It is true that Senator Davey is an important man, but who is Senator Davey against 98 per cent of Canadians who want to retain *Time* Canada and *Reader's Digest*? A man who has the drag to subjugate the working of democracy. That is what it amounts to. What motivates Senator Davey to flout commonsense, to flout fair play? Is it the Toronto *Star*?

Senator Croll: Yes.

Senator Walker: Thank you, Senator Croll. Or is it also Peter Newman, the editor of Maclean's? Or is it the great Maclean-Hunter publishing company, which has more than 50 per cent of the Canadian magazine industry at the present time? It has a monopoly of the Canadian magazine industry, plus radio and television stations. With Bill C-58 passed the legislative guarantee of lack of competition ensures that *Maclean's* maintains a monopoly position. If it is bad now, what will it be after *Time* Canada drops out? It has been trying to prove itself for years. What will it be like when this bill passes this house?

The career of *Time* Canada terminated without effectively benefiting as a result the growth of indigenous publications—in other words, magazines originating in Canada. Only the monolith—for the information of the honourable senator from New Brunswick, "monolith" means a whole. It is a massive hole, a great hole.

What is the result of Newman's, Davey's, Faulkner's, Cullen's and Trudeau's Bill C-58? They are all very clever. The first result is the disappearance of the only truly modern Canadian magazine that we have. That is the first loss, and an important loss to the Canadian public. Secondly, it is proof positive that the federal government is bent on destroying competition, as distinct from equalizing competition, because with *Time* Canada out there is nothing to keep the already monopolistic Maclean-Hunter from grabbing a much bigger field than ever.

Thirdly—this may not matter to Senator McElman—what of the tens of thousands, none of whom are employed in New Brunswick, of employees and shareholders who are enjoying the benefits of free enterprise and free competition in other American subsidiaries at the present time? What will happen to them? What future have they got? Are they not going to be frightened because of the tendency of this government to go up the garden path to a closed economy? Are we becoming a banana republic? What has happened to Canada-United States relations, Senator McElman? What has happened to our good-natured good neighbour policy with the United States?

Honourable senators, turning my attention away from my student for a few minutes, did you ever consider that the United States imports 80 per cent of Canada's entire production? On the other hand, Canada imports 3 per cent to 5 per cent of the production of the United States. I can say—and you can say too, because you have been in the United States on business or on pleasure—that the Americans do not trust us any more. They have watched us nationalize the potash industry without apparent reason. They have watched us play pretty sharp with oil. Now they watch us throw out *Time* Canada, and put *Reader's Digest* in a straitjacket. It is not beyond possibility that some day they will reply in kind. Perhaps we should not worry about that. However, we had that experience when the Smoot-Hawley tariff was passed in the late twenties, when Canadians had a dreadful experience. It made us realize how much we are dependent, not so much on the Canadian subsidiaries, but on the importation of our production by the Americans.

[Senator Walker.]

I suggest that this thing is so serious that we should have a delegation of three from the Senate to interview the Prime Minister. Let us get his three best friends in the Senate to do it. There is no question about who they are. I will put them in more or less alphabetical order, Senator Davey, so that you will not be offended, although you are hard to offend anyway.

First, Senator Austin. He is a very close friend, the latest appointment to the Senate. Secondly, I would suggest his greatest friend, who helped to get him elected originally in Mount Royal, a very close personal friend, his dear friend Senator Giguère. Thirdly, Senator Davey.

I would ask them to go to see the Prime Minister and ask him what he meant by this article which appeared in *Maclean's* magazine of October 20, based on an interview when he was discussing the subject of nationalism and the measures to which it can lead. This is good; I agree with him here. The Prime Minister said:

> I'd say the test of them—

That is, the measures that should be invoked.

> —is always: are they by and large good for the mass of the people or are they something which is brought in to protect a small elite group?

Those are his own words—"to protect a small elite group." Will you take this committee of three of his most intimate friends?

● (1640)

Let us take the Prime Minister's perfectly proper enunciation and apply it to Bill C-58. Is this bill good for the mass of the people? Ninety-eight per cent of the people think not but, of course, as the Prime Minister has often said, the people do not know and he has to tell them. I ask you, is it good for the people? They want *Time* to remain as it is, as do all who like good newspapers, good news magazines, with six pages of Canadian news and editorials.

Is Bill C-58, to quote the Prime Minister, something brought in to satisfy a small elite group? Of course, it is something to satisfy a small elite group. Who else does this bill protect but the owners of the *Star* and the owners of *Maclean's*, and the Maclean-Hunter empire. Surely that is clear.

Now, honourable senators, you have your mission. I know you will see the Prime Minister at 9 o'clock in the morning, and see you he will because of the great affection that he has for you all.

Let us turn to the Davey report on the Mass Media back in 1971. In all humility, may I refer you to my speech on the subject as reported in Senate *Hansard* of February 3, 1971, almost at the beginning of the day. Let me first read from the Davey report, page 159, where he says:

> There is no question that both magazines have been good corporate citizens. It is also clear that their financial success is not solely attributable to the competitive advantage they enjoy. Both are excellent products—perhaps the most skillfully edited mass magazines in history.

That is pretty good for the man who is so violently opposing them today.

Walter Gordon, the great economic nationalist, for whom Senator Davey had a marvellous party—1,500 people at a big hotel in Toronto, with imported wines. Everything was imported. It was a marvellous affair.

Senator Davey: They were Canadian wines.

Senator Walker: Canadian wines, I see. It shows you that the people who were there must have been overcome by the exuberance of what they had before the wines came. Of course, they were telling me this to make me jealous because I was not invited.

Walter Gordon, the great economist, who has been quoted by my friend tonight, said that further consideration was given to whether or not *Time* and *Reader's Digest* would maintain what they had as Canadian magazines, as Canadian corporate citizens—what they had had for a whole generation. What he decided there was in spite of the recommendation of the O'Leary report. The O'Leary report was never implemented, but it is going to be implemented now.

I suggest to you, if Senator O'Leary were well enough to be present, even he would say he has changed his mind on this issue. This is what Mr. Walter Gordon, the economic nationalist, the great friend of my friend across the way here, and also a director of the *Star* newspaper, said on June 14, 1965, as reported at page 2385 of *House of Commons Debates*:

> This government—

And he meant the Pearson Government.

> —after giving the matter further consideration, decided that the measure proposed by our predecessors was a sound one. This decision was announced in the Throne Speech of February, 1964.

In other words, Mr. Diefenbaker, instead of embracing the O'Leary report and its recommendations, made the exceptions for *Time* and *Reader's Digest*.

At page 470 of *Debates of the Senate* for February 3, 1971, where Mr. Gordon's remarks are also quoted, I said:

> Here we have section 12A passed by the House of Commons at the instance of that great economic nationalist, the Honourable Walter Gordon—

Honourable senators, that is the law you are asked to upset today, the law that was passed by the Pearson Government and which was carried through the house by the Honourable Walter Gordon, who was a minister of the Crown at that time.

In publishing a magazine, particularly a news magazine, the editor must go all over the world for his information. What difference does it make that *Time* and *Reader's Digest*, good corporate citizens, should take whatever copy they can from their parent companies? Isn't that what General Motors does? Isn't that what any subsidiary corporation in Canada does? They take the best they can get and the *Star* newspaper, now the largest newspaper in the world—

Senator Davey: Probably in Canada, but not in the world.

Senator Walker: All right, not in the world, but with a circulation of half a million. It goes all over the world for its news. It has contacts all over the world—contacts all over Europe and all over the United States. I am suggesting to you that any magazine that can do what *Time* Canada and *Reader's Digest* have done would do the same thing if they had the opportunity.

I understand that even now *Maclean's* magazine is trying its best to get into the big league. They cannot exist without it. A news magazine cannot exist unless it has international ramifications. Why condemn *Time* because it is able to go to the parent company and get a lot of good information ready made? What harm does that do to the Canadian public?

Time Canada pays a corporation tax of more than 50 per cent, the same as any other company. As my friend has so rightly put it, it is a good corporate citizen. *Time* has been here for a whole generation, and you are kicking it out.

Time has the approbation—and again I am summarizing—of 98 per cent of Canadians. *Time* has a Canadian plant, and Canadian employees and editorial writers who must be fired. It is printed in Canada. All its Canadian editorials are published in Canada, and it pays over 50 per cent of its profits, as I stated, in corporation taxes. It gives us six pages of Canadian content every week. The nice thing about it is that with all the American tendency to rub us the wrong way, *Time* has been factually correct, fair to both sides, and makes fascinating reading.

Honourable senators, we are not a jury—although when I hear Senator McElman, it seems that he talks as a foreman does at times—but we are faced with a great problem. We have it in our hands to throw these publications out, but I ask you to search your consciences to see whether what we are doing is the fair thing in all the circumstances. I was going to speak at greater length, but the time is going on. Search your consciences, and let us have a free vote on this matter. In the meantime, perhaps that wonderful committee will be able to bring back its report.

Senator Davey: I wonder, Senator Walker, if I could ask one question?

Senator Walker: Yes.

Senator Davey: You made repeated reference in the course of your remarks to 98 per cent approbation. I am wondering if you could give me the details of that survey and study. I would like to look at it.

Senator Walker: It was the last time a survey was taken of *Time* and *Reader's Digest*.

Senator Davey: A survey taken by whom and when?

Senator Walker: I have no idea. I will get that for you, if you like.

On motion of Senator McIlraith, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, March 4, 1976

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

Prayers.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, March 9, 1976, at 8 o'clock in the evening. Before the question is put, I should like to give the usual brief outline of the Senate's work for the coming week. I shall deal first with the committee schedule.

The Standing Senate Committee on Foreign Affairs will meet at 2.30 on Tuesday afternoon to consider Bill C-85, respecting immigration security, which was referred to that committee yesterday. The Standing Senate Committee on Legal and Constitutional Affairs has scheduled a meeting for 4 p.m. It will deal with Bill C-71, the Criminal Law Amendment bill, with the Minister of Justice in attendance. If the motion to authorize the committee to examine and report upon Bill C-83, for the better protection of Canadian society against perpetrators of violent and other crime, has been adopted by the Senate, the committee will proceed to organize for that study.

On Wednesday, the Banking, Trade and Commerce Committee will meet at 9.30 to consider Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium, and Canada and Israel. Following that, it will hear witnesses with respect to its examination of Canadian textile problems.

The Standing Senate Committee on National Finance has called a meeting for 9.30 to examine supplementary estimates (B) for the fiscal year ending March 31, 1976, which were tabled in the Senate yesterday. The Special Joint Committee on the National Capital Region will meet at 3.30, and there will be a meeting of the Special Senate Committee on Science Policy when the Senate rises.

Although meetings of subcommittees are not usually mentioned, I am informed by the Deputy Chairman, Senator Grosart, that there will be a meeting of the subcommittee of Internal Economy, Budgets and Administration, on Wednesday next at 5 p.m.

On Thursday, the Standing Senate Committee on Foreign Affairs has scheduled a meeting for 9.30 to continue its study of Canadian relations with the United States, and the Committee on Health, Welfare and Science will meet at 10 a.m. to consider Bill S-31, to amend the Quarantine Act. Also on Thursday, the Special Joint Committee on Regulations and other Statutory Instruments may meet at 11 a.m. I am advised that this is not definite, and the usual notice will be sent out in due course if the meeting is to take place. The Special Joint Committee on the National Capital Region has called a meeting for 3.30 p.m. on that day.

● (1410)

In the Senate, the debate on second reading of Bill C-58, to amend the Income Tax Act, and other items now on the Order Paper, will be considered in their proper sequence. In addition, I understand that by the time we return next week we will have Bill C-61, The Maritime Code Act, from the other place.

Motion agreed to.

ANTI-INFLATION PROGRAM

INCREASE IN BUS FARES IN SAINT JOHN—QUESTION ANSWERED

Senator Perrault: Honourable senators, on March 2 Senator Riley asked a question concerning transit fares in one of the cities of New Brunswick. The allegation was made that the city in which the honourable senator resides has had bus fares increased by 100 per cent. The senator asked whether this alleged increase is within the anti-inflation program limits. I promised to undertake an inquiry, and I have obtained at least some information.

First of all, the fare increase was not 100 per cent. The bus tickets in that city were 35 cents, or three for $1. They have gone to 50 cents a ticket. More relevant to the inquiry is the fact that the agreement signed between New Brunswick and the federal government covers only compensation agreements in municipalities. Prices and profits are not subject to Anti-Inflation Board jurisdiction. Therefore, the bus fare increase is the responsibility of the municipal government, which would have to answer to the local people about this matter.

ADMINISTRATION OF JUSTICE

ALLEGATIONS OF INTERFERENCE BY CABINET MINISTERS—QUESTION ANSWERED

Senator Perrault: Honourable senators, I can now report further on the matter discussed yesterday afternoon arising out of a question posed by the Honourable Senator Walker.

I have been informed that the Minister of Justice will this afternoon in the other place report that a communication has been directed this day to Chief Justice Deschênes of the Superior Court of Quebec, requesting that the allegations made against certain members of the government be reviewed. Presumably after the Chief Justice has determined the kind of action he intends to take or to recommend it may be possible to make the text of that letter public. I have been informed that only after consideration by the Chief Justice would the government consider it

proper to announce any further inquiry, if in fact the Chief Justice makes such a recommendation.

Senator Walker: Under what authority is the Chief Justice of the Superior Court of Quebec making this investigation?

Senator Perrault: It is felt that the matter should be referred to the Chief Justice in his capacity as Chief Justice because, of course, one of his associates has made this series of allegations, and the government has determined that this is the most appropriate initial action.

Senator Walker: Because the government is so determined, and because my friend feels that the Chief Justice should investigate it, that does not give him the authority. I am asking what possible authority has the Chief Justice.

Senator Goldenberg: I would point out to Senator Walker that the Chief Justice is responsible for the administration of justice by the Superior Court, and if there has been any interference with that administration the proper person to consider that is the Chief Justice of the court.

Senator Grosart: The question is being asked of the government.

Senator Walker: This has to do with the administration of justice. I am asking what right the government has to appoint the Chief Justice. Next, I am asking what authority the Chief Justice has to act.

Obviously my friend does not know and the leader does not know. Perhaps you would like to look it up. In the meantime, may I bring my friend's attention to his charge yesterday? The charge was that the incidents all took place in 1969. Perhaps by this time my friend has read the letter of the aggrieved member of the judiciary, Mr. Justice Mackay. The most important of all the allegations, of course, took place just a short time ago during the Ouellet trial when Mr. Drury interposed with Mr. Justice Mackay to aid his colleague in the Cabinet, Mr. Ouellet. There does not seem to be any dispute on that, even Mr. Drury has admitted a conversation with him.

Senator Perrault: I do not intend to resume the heat and disputation of yesterday afternoon.

Senator Walker: It was all one-sided.

Senator Perrault: The honourable senator stated yesterday that perhaps there was a lack of knowledge about the law on this side. I would point out, however, that all of us have a profound knowledge of the fact that a man or woman is innocent until proven guilty. That is an essential fact here.

Senator Walker: Now, isn't that wonderful. You should go back to kindergarten.

Senator Perrault: It is not appropriate to your station, honourable senator, to rise in your place out of order and attempt to exchange insults with anyone on this side.

Senator Walker: I was simply asking a question.

Senator Perrault: I am simply suggesting to you that—

Senator Walker: "Simply"?

Senator Perrault: —one of the basic allegations made was about an incident alleged to have taken place in 1969.

Senator Walker: That is not what you said yesterday.

Senator Perrault: I said that some of the allegations went back to 1969, or words to that effect. What I said was, I think, relevant and appropriate. However, it has been clearly indicated now that the government is moving in a very appropriate fashion to determine where the truth lies, and action in the highest parliamentary and legal tradition will be taken by this government to make sure that there is no doubt left in the public mind.

Senator Walker: May I read what you did say yesterday, with the permission of Senator Argue, of course? At page 1825 of the Senate *Debates* of March 3, 1976, you said:

> If I may express a personal view, if these incidents occurred in 1969, as has been alleged in the press reports—

You are wrong on all counts so far.

> —remarkably, it appears to have taken seven years for the accuser to muster a sufficient sense of outrage to express himself as he is reported to have done in the public reports made available this morning.

So, do not try to be cheap and slip out of a statement that you made yesterday.

Some Hon. Senators: Shame! shame!

Senator Perrault: As an honourable senator who has served in a previous government, Senator Walker is setting a deplorable example for newer senators in this chamber by his use of such language. When I spoke yesterday afternoon, perhaps I should have said "some of them are as far back as 1969." Nevertheless, the fact is that one of the incidents which apparently has caused this sense of outrage in the mind and heart of this particular jurist occurred in 1969. That was seven years ago. Apparently it took seven years for him to determine to make the allegations reported in the media yesterday.

Senator Walker: The Ouellet case was just a few months ago. It is all very well for you people on your side who vote for the government and never vote according to your own convictions—it is all very well for you to say that the fact is this.

The incident that caused him to turn in the report was just a few months ago. It related to a chap called Ouellet, whom you sit with in the cabinet. You knew that, as well as you know anything, when you made that statement yesterday, which deceived the house. You said seven years.

● (1420)

Some Hon. Senators: Order. Order.

Senator Perrault: Honourable senators,—

Senator Walker: I would not say you deliberately did it, but you deceived the house.

Senator Perrault: The honourable senator is obviously a very badly frustrated senator this afternoon.

Senator Walker: Never mind me. Just answer the questions.

Senator Perrault: When one must engage in the shoddy parliamentary practice of imputing motives, one has a very weak case indeed.

Senator Walker: You are just as shoddy.

Senator Perrault: I feel sure that most Canadians, indeed, I rather suspect most members of the Opposition, are quite satisfied with the action the government is taking to determine the facts of the matter.

Senator Walker: Speak for yourself. Don't speak for the Opposition.

Senator Flynn: Honourable senators, just as a preface to the question I wish to put to the Leader of the Government, in my opinion, as I said yesterday, he should know when to accept the fact that he has made an error.

Senator Walker: A gaff!

Senator Flynn: Because it is quite obvious that his reference to 1969 was entirely irrelevant, I am now asking him if the report of the Chief Justice will be made public. It may be a matter of administration, as was suggested by Senator Goldenberg to the Leader of the Government, because Senator Goldenberg apparently thought the Leader of the Government would not have the proper answer—

Some Hon. Senators: Oh, oh!

Senator Flynn: —but it may be something else. And it would be well for us to remember that a member of the judiciary is not under the authority of the Chief Justice in matters other than administration. I should like the Leader of the Government to assure us that the report of the Chief Justice will be made public so that we may be given the benefit of his views on that very special point. Members of the judiciary, I repeat, so far as their privileges are concerned, do not come under the authority of the Chief Justice.

Senator Walker: Don't even try to answer.

Senator Perrault: Honourable senators, I have no further statement to make at this time, but there is always that possibility.

Senator Flynn: I hope.

Senator Grosart: Possibilities.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

On the Order:

Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for the second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator McIlraith, P.C.*).

Senator McIlraith: Honourable senators, I should like to ask permission to defer to Senator Cook today, reserving my right to intervene in the debate at a later date.

The Hon. the Speaker: Has the Honourable Senator Cook leave to proceed?

Hon. Senators: Agreed.

Senator Walker: Honourable senators, I believe this is an appropriate time for me to intervene. Yesterday Senator Davey asked me the following question, which is to be found in the *Debates of the Senate* at page 1845:

[Senator Walker.]

SENATOR DAVEY: You made repeated reference in the course of your remarks to 98 per cent approbation. I am wondering if you could give me the details of that survey and study. I would like to look at it.

I told Senator Davey yesterday that I had no idea because when I was here yesterday I did not know when, but my answer today is that it was the Gallup Poll of January, 1975.

Hon. Eric Cook: Honourable senators, this is not a good piece of legislation. There are in my opinion very serious objections to it. Some of those objections have already been stated by Senator Walker and I am in agreement with him on those. One of my objections is that the legislation has not a very noble aim. It seeks to take away something—that is, revenue from printed advertisements—which has been peacefully and quietly enjoyed for a quarter of a century, from one corporation, for the purpose of, hopefully, investing the revenue in another corporation. The sin of the corporation which is to be punished is that it is a United States corporation. The virtue of the corporation which is to benefit is that it is a Canadian corporation. In my opinion this is not a clever piece of legislation, because I doubt very much that more than a few, if any, Canadian advertisers will switch to the Canadian corporation.

To sum up, unless *Maclean's* magazine can survive on its own merits, choking the Canadian edition of *Time* magazine to death will not help.

If the bill is passed it will be a major victory for the ultra-nationalists, the most vocal of whom seem to me to be the academic community and a number of bureaucrats. These people are always urging us not to sell our soul to the foreign investor, and they command us to stand firm against foreign capital. They point out that if we are prepared to put up with a reduction in our national standard of living for a generation or two we shall emerge bigger and better. It seems to me, however, that most people who talk this way are hypocrites. A reduction in our standard of living will make little or no difference to their secure way of life; rather, it will fall clearly and totally on the shoulders of the helpless, the old, the very young, the sick, the disabled, the unemployed and the unorganized. These Canadians are not in a position to give a damn whether the help and assistance they must get from the nation comes from employment and taxes generated from the operations of a Canadian investor or a foreign investor.

In my view we must stop this ultra-nationalist madness and adopt a rational, sensible policy towards the development and welfare of our country. A small first step towards this goal would be to defeat this bill.

On motion of Senator McDonald, for Senator Hayden, debate adjourned.

NATIONAL DEFENCE ACT AND CRIMINAL CODE (TOTAL ABOLITION OF CAPITAL PUNISHMENT)

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, seconded by the Honourable Senator O'Leary, for the second reading of the Bill S-23,

intituled: "An Act to amend the National Defence Act and the Criminal Code (total abolition of capital punishment)".—(*Honourable Senator Prowse*).

Senator McDonald: Stand.

Senator Flynn: Until when?

Senator McDonald: If you would like a proposal from me, for ever.

Senator Flynn: Well, why not make it?

Senator McDonald: For the information of the House, Senator Prowse is not well.

Senator Flynn: I am not discussing that.

Senator McDonald: I will endeavour to get in touch with him in the next few days and find out if he wants the matter to stand until he returns or whether he is prepared to let it be removed from the Order Paper.

Order stands.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—ORDER STANDS

On the order:

Resuming the debate on the inquiry of the Honourable Senator Michaud calling the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.—(*Honourable Senator Riley*).

Senator Riley: Honourable senators, with permission I would like this order to stand until Wednesday, March 17.

Senator Flynn: That is St. Patrick's Day.

Senator Asselin: You were ready to speak on Tuesday evening.

Senator Riley: I said I wanted to obtain some figures. You were not paying attention.

Order stands.

● (1430)

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—DEBATE CONTINUED

The Senate resumed from Tuesday, February 10, the debate on the inquiry of Senator Desruisseaux calling the attention of the Senate to the question of total free trade as an economic consideration for Canada.

Senator Molgat: Honourable senators, Senator Petten adjourned this debate on my behalf, and, if it is agreed, I am prepared to proceed now.

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

Hon. Senators: Agreed.

[*Translation*]

Hon. Gildas L. Molgat: Honourable senators, first I want to congratulate Senator Desruisseaux who raised this very serious and very touchy subject—the matter of the policy of free trade in Canada.

I do not want to hold you back Senator Desruisseaux; do not feel obliged to stay.

I must say that when I saw that proposal on the order paper my first reaction was: "Well, well, Senator Desruisseaux, contrary to what I would have thought, is a free trader". Yet, knowing full well the area he comes from, understanding fully the normal attitude of Canadians and that businessmen, particularly in central Canada, are generally for high tariffs while we from the west and people in the Maritime provinces are rather free traders, I was a bit surprised to see this proposal. But when I heard his speech I understood his point of view. He is not a free trader. And, do you know, I fully understand his position.

Senator Desruisseaux: If you will allow me an immediate observation. You say that I am not a free trader. I think you should, and it would be good if you accept my point of view, say that I am not a free trader unless there is a reciprocal arrangement. That is not the same thing.

Senator Molgat: Thank you very much, senator, I accept your point of view. In that case we agree—perhaps not on the modes of application but certainly on the whole.

As I was saying, if I were a senator representing an area like yours, with an extensive textile and footwear industry, as well as a high rate of unemployment, it is quite possible that I would be less of a free trader than I am.

Senator Desruisseaux: No doubt about it.

Senator Molgat: Then, I fully understand.

[*English*]

However, as much as I appreciated my honourable colleague's speech, and as much as I think it is important that he should make that speech here and bring the matter forward, it seems to me that there is another side to the story having a somewhat different emphasis from that presented by him.

I see that as having three elements. The first is the one that we debated just briefly a moment ago—the question of complete free trade. The second is, what happens if we do not move? The third is timing.

I want to deal first with the question of complete, absolute, unequivocal, unilateral and sudden free trade. Obviously this is impossible. And those of us in western Canada who have been pressing for years and years for freer trade have never taken that position. We quite understand that there has to be a gradual progression in any process, and that there must be reciprocity, but what we have been pushing for is some forward action. It is our view that there has not been sufficient action, and what action has been taken has always been grudgingly rather than vigorously taken. It is our view that for the benefit of Canada we should be moving much more quickly. So when we see developments under GATT, we think that Canada should be in the forefront, pushing, one of those really leading the battle.

Canada has taken certain steps. There was the auto pact, for example, and western Canada supported that agreement although it did nothing for us. It has created substantial employment in central Canada but none in western Canada. And it has not meant any reduction in the price of automobiles or trucks. Nevertheless, we support it because we think that is the proper course to follow. Agreements to

reduce tariffs by reciprocal arrangements on some industry basis or product basis is a good step forward.

We believe further that regional agreements can be made. This is where Canada should be moving—in agreements with the European Common Market, the United States and Japan, with whoever our main trading partners are. Senator Desruisseaux, in my opinion, put the case very clearly of the dangers of moving suddenly into free trade. My question, though, is: What happens if we do not move and if we do not move quickly enough?

I think we are faced with an entirely new world situation, and Canada must assess its position in the light of that situation. We have only to look at the development of the economic blocs throughout the world, such as in Europe where a Common Market has been developed which is now larger than that large economy to the south of us. The total population of the Common Market member nations is larger than that of the United States. Japan in the post-war period has developed a tremendous economy with a huge internal market and access to the world. That development is going on elsewhere. In Latin America there are now two groupings developing—the Central American common market and the Andean group. Groups of countries are being formed to work together. Australia and New Zealand have agreed to work together on a free-trade basis.

The second development taking place is a growing contact with the Communist world. I recognize that President Ford no longer believes in, or does not use, the word "détente", but bit by bit our contacts with both Russia and China are growing; our trade contacts are growing. It is inevitable that this will continue, and that those markets will open to western goods. Will Canada, however, be in a position to jump in there? Considering our present situation with an internal market of less than 25 million people and an economy geared to that, plus some world markets, but not world markets on the basis on which they are developing now, will we be ready to move into those new fields if we continue our present attitude?

Senator Desruisseaux: At what cost?

Senator Molgat: At what cost? That is right. But at what cost if we do not move? That is the other element of the story which, in my opinion, we must consider very carefully.

The third development taking place is the growth of new economic centres. Honourable senators, we only need to go into the retail stores in this country to find there goods from Taiwan, Hong Kong, Brazil and Singapore. The shoes, shirts and textiles, produced now in Canada are being produced in all those countries at a much lower cost.

Senator Desruisseaux: Shoes no more—hardly any.

Senator Molgat: Hardly any are produced here, because we simply cannot compete with these countries on that basis. We only need to look at the book we all received recently on South Korea to realize the developments in that country. Consequently, as Canadians we must change our attitude. In my opinion, there is no future for Canada in the production of footwear, shirts and the standard elements. We must move ourselves into the new technology, and we have the capability to do that.

Senator Desruisseaux: Why?

[Senator Molgat.]

Senator Molgat: Because we could serve our people and our country better by going into those new fields where we can compete on the world markets, whereas we cannot compete in what might be termed the standard technology field.

Another element is the growing importance of the multinational corporations, and those corporations today are tremendously powerful. They presently produce by themselves, just the multinationals, 10 per cent of the total output of the non-communist world. That is how powerful they are. Their production, the production of U.S. multinationals, is greater than the total U.S. production, and the danger in that for us is that these multinationals could move their production facilities, their research facilities, and their management, from country to country.

● (1440)

An Hon. Senator: And they do.

Senator Molgat: And if they do, and we have not had the chance to bring our management skills and trained people to the proper level, those multinationals will not be here. They will be elsewhere. We will not be part of that particular action and our people will suffer as a result.

Possibly the best way I can describe the changing situation is to quote directly from the Economic Council of Canada on the dangers that we face as Canadians. I am quoting from page 55:

> In 1960 Canada's domestic market was close to or larger than sixteen others among twenty-three industrial countries and not substantially below the average size. By 1980, however, the Canadian market will be less than one-quarter of the average size of the economic units into which these countries will by then be grouped. Canada will thus find itself one of the very few industrial countries without free access to a market whose population numbers over one hundred million.

That is the risk. If we do not move along we will find ourselves with a shrinking market, with less and less access to world markets, because we will not have the economies of scale. We will be producing for a small number of people relative to the markets outside of us and we will not be competitive.

What will happen is this: There will be a growing demand for protection, and increasingly we will be looking inwards rather than outwards. That is a dangerous course for Canada. Those are the risks that I see in not moving. Those are the dangers that I see ahead if we do not move along.

A third question is: If we are going to do something, when is the best time to do it? What is the right timing? Is it now or should we wait? It seems to me that the situation is proper now. We are in the fortunate position of having the second best educated labour force in the world, second only to that of our American neighbours. We have highly trained people. We can move into other types of production where the skills, knowledge and training which our people have can be used effectively. The longer we wait, the smaller will be the gap, because other countries will improve their standards.

Another point is that our birth rate has changed very substantially. As a result, we are not facing the same kind

of pressures. Well, we are right now but we will not be by the time whatever action we decide upon has taken effect. We will not be facing the same kind of pressures in the amount of employment. The figures I have indicate that between 1971 and 1974 the average yearly increase in our labour force was 250,000. In 1974 alone, 290,000 people came onto the labour force. Let us go further, to 1982 and 1985. The estimates are that the figure will have dropped to 170,000. It will have dropped from 290,000 in 1974 to 170,000 in 1984, a very profound change in our requirements as to the number of jobs.

Let us look at the other side, to the quality of jobs, and deal with the aspect of better jobs for our people, better paying jobs, and jobs where their skills can be better used.

Senator Desruisseaux gave us figures the other day which indicated the importance of manufacturing in the whole output of Canada. Those figures are also decreasing.

It is true that at the moment about 20 per cent of our total employment in this country comes from manufacturing, but that figure is decreasing. Again quoting from the Economic Council of Canada's report, at page 63:

> Manufacturing, the principal sector of the economy affected by Canadian and foreign trade barriers, now accounts for only about 20 per cent of employment in Canada, and this proportion has been falling.

Further along it says:

> Manufacturing industries in which tariff protection exceeded 5 per cent accounted for only 15 per cent of total Canadian employment in 1970.

So, basically we are at the position where approximately 15 per cent of our labour force could be affected. That is not a negligible amount, but it is a manageable amount provided there is proper government action to correct it.

Looking at these factors and at what is going on around us—looking at what has happened in Europe, the fact that just last year Ireland, Great Britain and Denmark decided to join the Common Market following great objection from many people, and bearing in mind that this is an accelerating thing—in my view the time is now, and we cannot afford to waste any further time.

It would be simplistic to suggest that there will not be dislocations, that there will not be great damage to certain individuals and certain regions. That is why any action taken must be done on a gradual basis. But the longer we wait, the more difficult it will be, because if we wait too long we will face a crisis and we may then be pushed against the wall or may have to act too hastily. We should therefore be looking at a gradual, steady move and be prepared to have proper government programs to protect those individuals who will be damaged and those regions which will be hurt. The longer we wait, the more danger there is.

I agree totally with the opening paragraph of Senator Desruisseaux's excellent speech, when he said:
[*Translation*]

> ... total free trade, as recommended by some economists and recently envisaged by the Economic Council of Canada to help expand our foreign trade, deserves serious consideration.

I fully agree, honourable senators. It is essential that we act now.
[*English*]

Is the Senate the proper body to do this? In my opinion, it is a good place to start. We have here the people with the knowledge and we have the mechanism. Whether it is to be done through the National Finance Committee or through a special committee, we should take this on right now as a specific task. We should go through this report in detail, arrange to have the members of the Economic Council appear before us, and start some action to see what should be done and where we should be going.

There is no question that as Canadians we must act, and I cannot express the need and the urgency of acting in this regard any better than the Economic Council of Canada, when they say in the final paragraph of the last chapter:

> We submit, therefore, that Canada can certainly contemplate the idea of a really determined move towards trade liberalization. We would go further. We do not think that this country can afford to take any other action. Such a step is inevitable if Canada is to remain one of the world's advanced economic powers and at the same time satisfy its other national objectives. Freer trade, according to the Council's appraisal of the Canadian situation, is the policy most likely to contribute to a viable, dynamic, and growing economy in a country that remains politically autonomous and internally united.

● (1450)

Senator Desruisseaux: Would the honourable senator permit a question?

Senator Molgat: Certainly.

Senator Desruisseaux: I should like to preface my question by commending Senator Molgat on an excellent presentation in favour of freer trade. However, a number of questions arise from what he said. I agree with him that more studies in the area of free trade, and arguments for and against, should be encouraged.

In my region, which comprises a good part of southern Quebec, many industries have closed down because of low-cost imports with which we cannot compete because we do not have the same base for production costs.

Senator Grosart: Question.

Senator Desruisseaux: I am wondering whether the honourable senator is aware of these closings, the most recent one having taken place a week or two ago. That closing, I understand, involved a company in the glove industry.

Senator Molgat: I may not be aware of individual closings, but I am certainly aware that many industries, such as the glove industry, the textile industry, the shoe industry—what is left of it—have certainly been through a very difficult period, and I am conscious of the difficulties that this presents for the individuals concerned, both the workers in and the operators of these plants. However, I do not think that will change, except through much higher tariff protection, and if we move to much higher protection we may be creating other difficulties for our country in other fields.

In my view, the answer is to retrain those people affected for better jobs in more highly technology-oriented

industries. I do not feel we should attempt to compete in those fields where, quite obviously, such countries as South Korea and Taiwan can produce the product at far less cost, and will continue to do so for the foreseeable future. I think our citizens are sufficiently educated to be directed into new industries, but such a course of action would take time and a government program.

Senator Grosart: May I ask the honourable senator a question? Is Senator Molgat in favour of free trade in the area of magazines?

Senator Molgat: Certainly; I would not support any action involving tariffs. As far as I am concerned, there should be free trade in the area of magazines.

Hon. John J. Connolly: Honourable senators, I do not propose to detain the Senate for very long this afternoon. I am constrained to rise, first of all, to compliment Senator Desruisseaux for bringing this important matter to the attention of the Senate and, secondly, to congratulate Senator Molgat for an able and very worthwhile contribution to this debate.

I was sitting with Senator Buckwold while listening to Senator Molgat's speech and I asked him where Senator Molgat got all his information, to which he replied, "Well, this is just western talk. We have it for breakfast." Certainly, the way it came out is evidence of the fact that he is familiar with this important subject—a subject that is really of the lifeblood of the economy of this country.

In the east we have heard about the westerners and their interest in free trade. John W. Dafoe made this Article No. I of the economic credo of the Winnipeg *Free Press*.

I should like to get Senator Molgat's reaction to a problem that was raised during the course of the committee hearings on Canadian textile problems. It seems that for as long as any of us can remember the Canadian textile industry has been in trouble. I think most of us can remember, from the time we were in high school, debate as to whether or not this industry should be saved. Of course, in one part of Senator Molgat's remarks he indicated that the old stock answer used to be, "Oh yes, if you are going to save it, fine, but you will have to do it through tariff action."

One of the problems which confronts us is presented by a new device that has been developed since the end of the last war whereby, under bilateral agreements negotiated with these developing countries, there is a volume restriction on imports. Canada, as well as the United Kingdom, members of the EEC, and certainly the United States, have all restricted volumes of imports, particularly in the textile field, regardless of whether they are imports of materials for further manufacturing or finished goods.

Quite unexpectedly, and in a very short period of time, the market is flooded and the work of the production lines in Canadian mills is just about destroyed. What the industry is asking is better control over that kind of production by the countries concerned, and that Canada should ensure that the agreed quotas are not exceeded by the exporting countries.

I do not purport to understand the industry's position fully, but I do think the idea being advanced by the spokesmen for the industry is clear. The people in this industry know that in today's climate, both in Canada and internationally, the idea of raising tariffs to protect an industry is not a practical solution, and is not a course of action that any government of the developed world can be expected to take. In other words, the spirit of the Kennedy Round, the spirit of GATT—perhaps necessarily; perhaps even reluctantly—seems to have permeated the thinking of all governments.

The device of restricting imports voluntarily and on a fairly broad basis is something that even the signatories to GATT accept as a feasible way of dealing with the flooding of markets, and even with dumping. It is suggested that Canadian authorities should be a great deal more energetic in making sure that these quotas are observed by the signatories to the agreements, and indeed that the agreements are made on a much broader basis for a longer period of time, so that the Canadian industry, which is really manpower-intensive in many respects, can flourish and be competitive as well. That is the argument.

● (1500)

We have been told that this is not a theoretical position that Canadian industry is advocating, that the British are actively pursuing the negotiation of bilateral agreements with Taiwan, South Korea, Hong Kong and any other country where there is danger of dumping or flooding in the textile field.

In the light of this kind of study, I wonder whether the honourable senator has given any thought to the proposition that this new device—and it is a relatively new device which in the past 20 years has been developed to the point of having some impact—might be something which the Canadian authorities could use for the purpose of maintaining an industry as a viable entity, competitive in the markets of Canada, at least, if not in markets abroad.

Senator Molgat: On a temporary basis I think the quota system is necessary to permit that gradual progress that we need in any change in our commercial or industrial structure. As a long-range solution I have doubts as to whether it is the right course, except possibly to maintain some basic industry from a national security standpoint. Sweden, for example, did this just recently in the case of footwear, when they restricted imports on the basis that they had to maintain a footwear industry for basic national security purposes. They could not leave themselves totally dependent on imports to put shoes on the feet of their people. There may be a certain level of quotas that could be looked at, where the question of national security is involved. Apart from that, as a long-range solution I do not think it is the proper course.

On motion of Senator Grosart, debate adjourned.

CRIMINAL LAW

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE AUTHORIZED TO STUDY SUBJECT MATTER OF BILL C-83

Senator Perrault, pursuant to notice, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report upon the subject matter of the Bill C-83, intituled: "An Act for the better protection of Canadian society against perpetrators of violent and other

crime", in advance of the said Bill coming before the Senate, or any matter relating thereto; and

That the Committee have power to engage the services of such counsel, staff and technical advisers as may be necessary for the purpose of the said examination.

Senator Grosart: I wonder if the Leader of the Government would indicate when it is expected that Bill C-83 will come before the Senate?

Senator Perrault: It is my understanding that there will be one more meeting to consider Bill C-71. The committee is proposing to set aside for a period of time its consideration of conflict of interest, and then, following Bill C-71, to consider the subject matter of Bill C-83.

Senator Grosart: My question was: When is it anticipated that Bill C-83 will come to us?

Senator Perrault: I am sorry, I misunderstood the question. I can give no estimate at the present time. There could be a fairly long debate in the other place. The honourable senator himself may have more information with respect to that question than we do on this side.

Senator Grosart: I would ask if there is a special reason why we should use this device for this bill. It is a device we have used before, but usually there has been an explanation as to why it was necessary to study the subject matter of a bill before the bill itself reaches us.

Senator Langlois: Because of our wisdom.

Senator Perrault: This is an important bill, as has been acknowledged by all parties in Parliament. I am proud of the fact that the expertise of the Standing Senate Committee on Legal and Constitutional Affairs is such that it can make a valuable contribution to the national and parliamentary dialogue on the various features of the bill. This is why it is felt that a pre-study in the Senate is appropriate—because of the undoubted expertise of that committee and the great esteem in which it is held across the land.

Senator Langlois: We are wise guys on this side of Parliament Hill.

Senator Grosart: I am aware of that. But, with respect, I do not think the Leader of the Government has answered my question, because everything he has said could apply equally if the bill were considered by the committee in the usual way. This is an exception to our normal procedure, and I am asking what the rationale of the exception is.

Senator Perrault: Honourable senators, there are, of course, a number of precedents.

Senator Grosart: I am not asking about precedents. I am asking why we are following this procedure with this bill. I am not objecting.

Senator Perrault: Because in the judgment of the government it is of great importance, and the Standing Senate Committee on Legal and Constitutional Affairs can make a valuable contribution. Indeed, some of the findings of the committee may be of value to the other place, as has been the case on so many other occasions.

Senator Grosart: That is a good reason at last.

Senator Langlois: That is *the* reason.

Senator Flynn: Honourable senators, I just want to add a few words to what has already been said. I think the experience we have had in the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-71 shows that we often have good ideas but that they would probably be more readily accepted by the other place if we were to present them before the particular bill comes to us. I have in mind some of the amendments that have been suggested but which may not be accepted because we are studying Bill C-71 here after it has been passed by the other place. I am quite sure these same amendments would have been accepted if we had considered the bill before its passage by the House of Commons.

• (1510)

Senator Grosart: I knew that the Leader of the Opposition was well aware of the good reason. I was merely inquiring if the Leader of the Government was.

Senator Flynn: To be put on the record.

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

Motion agreed to.

The Senate adjourned until Tuesday, March 9, at 8 p.m.

APPENDIX

(*See p. 1817*)

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS

TEXT OF LETTER REFERRED TO BY HON. MICHEL FOURNIER ON MARCH 2, 1976

Diocese of Bathurst,

P.O. Box 460
Bathurst, N.B.

October 15, 1975

The Right Honourable Pierre Elliot Trudeau
House of Commons
Parliament Buildings
Ottawa, Ontario

Mr. Prime Minister:

We consider it our duty to express our sorrow and concern about the social and economic situation in the northeastern part of New Brunswick, such as we see it and live it. There is no doubt that the present disparities between our area and the southern part of the province, and even the rest of the country, are not improving and even have a tendency to increase. This is true in many sectors. We are well aware of the complexity of the present economic problem and of our lack of practical knowledge in this field. However, since human life is involved, we can no longer remain silent.

Unemployment is very high. Many people have only seasonal and casual employment. Any thoughtful man would be scared by the statistics. This fear gives way to panic when we see that our unemployment rate is twice as high as that of the province and three times worse than in certain areas of the southern part of the province.

The roads are inadequate, damaged and unable to meet the present needs of the industry and the population.

The migration of workers within the province is disastrous for family life. The father leaves home and comes back only for the weekend, and he often risks losing his culture and his language.

Yet, experts confirm that the area has a great wealth of known natural resources:

—the development of our mining potential has just been initiated;

—the rational use and development of our forests have just begun;

—valuable though underused farmlands and a troubled fishing industry require concentrated development efforts;

—finally, the tourism industry should offer greater development potential. The beauty of our beaches, lakes and rivers and the development of important infrastructures such as Sugar Loaf Park and the Acadian Village, are proven advantages.

In view of the nearly unlimited wealth of our natural and human resources, we cannot accept that a significant part of the population of the northeastern part of the province cannot find work there and is condemned to stagnation. We believe that a joint venture of both governments is possible and should be launched as soon as possible. The human welfare of the population must have priority over any political consideration.

Our solidarity with all citizens of the northeastern part of the province and our Christian beliefs prompt us to shout: We no longer want to see such poverty in such a rich area. One question is being asked continually like an ever growing obsession: How can it be possible to be at the same time so rich and so poor?

We, the Roman Catholic clergy of northeastern New Brunswick, make the following recommendations:

1. We recommend the development of other mines, which should not remain unworked for reasons which have nothing to do with the needs and rights of the people. These people have proven their discipline and their capacity for work in the mines.

2. We consider that a larger part of the processing of our minerals should be done locally. Considering that our province ranks second in zinc production and exports, all of it in the form of concentrates, we cannot understand the delay in implementing the project of a zinc refinery in Belledune. How can we explain the fact that other non-producing countries buy their zinc here and refine our production themselves?

3. We are convinced that governments must exercise good leadership on small or minor companies in order that every industry provide workers with proper working conditions. We want governments to establish standards that would be adhered to by new industries locating in our area so that workers here may not be considered only as cheap labour.

4. We welcome the introduction of a new forest development strategy and reforestation policy. We hope however that more efforts will be made to accelerate the implementation of such a strategy and to fight the grave damages done by the budworm.

5. We find that agriculture and fisheries must be better organized and adapted to meet new conditions created by both resource depletion and mechanization, with the resultant loss of a great many jobs. A vast program of manpower retraining is needed, especially in those segments subject to increased industrialization.

6. In conclusion, we stress one special regional priority, the inadequate road system. We are convinced that an adequate road system is an essential prerequisite for the region's economic and social revitalization. The spine of that system would be the new Highway 11.

The scandal in the slow progress of that highway is not understandable and is intolerable.

A new highway system would favour the location of industries interested in promoting better economic well-being among the people. While insisting on the need for that new highway, we do not want that its development be an excuse for postponing or stopping other social economic projects to promote self-initiative in various areas.

Although not economics experts, our Christian commitment requires that we see the problems and cry out loud our misery, in order to alert those holding power to

"serve". We hope our voice will be heard before it is too late. We wish the population to go on developing and thriving in a region so rich and so beautiful! We are convinced that if all people of good will will work together, total human development of the people will be ensured.

Ready to cooperate in the effort already started for northeastern New Brunswick's social and economic development, we remain,

Yours very truly,

Wesley Wade, Priest, Secretary,
The Diocesan Priest Committee
Diocese of Bathurst, New Brunswick.

Members of the Committee:

Edgar Godin, Bishop of Bathurst,
Bishop's Residence, Bathurst, New Brunswick.
Mgr. Donat Robichaud, Vicar-General and Parish Priest,
Beresford, New Brunswick.
Lionel Comeau, Chancellor and St. Sauveur Parish Priest, N.B.,
Bishopric of Bathurst, Bathurst, New Brunswick.
Gérald Boudreau, Priest, Diocesan Pastoral Coordinator,
Pastoral Centre, Bathurst, New Brunswick.
Benoît Rioux, Parish Priest, Zone Animator,
Tracadie, New Brunswick
Fortunat McGraw, Parish Priest, Zone Animator,
Caraquet, New Brunswick.
Armel Audet, Parish Priest, Zone Animator,
Lamèque, New Brunswick.
Edmond Richard, Parish Priest, Zone Animator,
Petit-Rocher, New Brunswick.
Lévi Arseneau, Parish Priest, Zone Animator,
Dalhousie, New Brunswick.
Vincent Haché, Parish Priest, Zone Animator,
Campbellton, New Brunswick.
Louis Vermeersch, Parish Priest, Representative for Diocese Parish Priests, Bathurst, New Brunswick.
David Boudreau, Capuchin Friar, Representative for Diocese Priests in the Religious Orders, Bathurst, New Brunswick.
Wesley Wade, Assistant Priest, Secretary, Representative for Assistant Priests and other Non-Parish Priests, 1170 Rough Water Drive, Bathurst, New Brunswick.

P.S. The above Committee is the official organ for Roman Catholic Priests in Northeastern New Brunswick.

C.C. The Hon. Richard Hatfield,
Premier of New Brunswick.

THE SENATE

Tuesday, March 9, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

STATUTE LAW (VETERANS AND RETURNED SOLDIERS' INSURANCE) AMENDMENT BILL, 1976

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-86, to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of a bibliography on source materials relating to Bills C-83 and C-84, issued by the Department of Justice.

Report of operations under the Fisheries Development Act for the fiscal year ended March 31, 1975, pursuant to section 10 of the said Act, Chapter F-21, R.S.C., 1970.

Report of the Minister of Industry, Trade and Commerce under the Corporations and Labour Unions Returns Act (Part I, Corporations) for the fiscal periods ended in 1973, pursuant to section 18(1) of the said Act, Chapter C-31, R.S.C., 1970.

Copies of Order in Council P.C. 1976-302, dated February 17, 1976, amending the Bankruptcy Rules made by Order in Council P.C. 1954-1976, dated December 16, 1954, as amended, pursuant to section 180(2) of the Bankruptcy Act, Chapter B-3, R.S.C., 1970.

Copies of Recommendations, dated February 26, 1976, of the Anti-Inflation Board regarding suppliers in the construction, grain handling, longshoring, shipping and trucking industries who bargain collectively, together with a paper entitled: "Application of Guidelines to Suppliers who engage in Association Bargaining".

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting tomorrow, Wednesday, 10th March, 1976, and that rule 76(4) be suspended in relation thereto.

Senator Flynn: May I have a word of explanation for this, because it relates to the Banking, Trade and Commerce Committee.

Senator Langlois: I have been asked by the Chairman of the Banking, Trade and Commerce Committee to put this motion tonight. Perhaps honourable senators would prefer to have an explanation directly from the chairman instead of from me.

Senator Hayden: Honourable senators, tomorrow morning we have to consider Bill S-32, to implement three tax conventions, which, being a public bill, is number one on our agenda.

Then, continuing our study of Canadian textile problems, we shall hear presentations by the Textile and Clothing Board, a textile labour union from Hamilton, and another textile labour union from Toronto. Those appointments were made some time ago.

We were asked to expedite our consideration of the tax convention bill, it being a public bill, and we agreed to do that. So it looks as though we will run into the afternoon—and considerably into the afternoon, I would say.

Senator Lamontagne: Honourable senators, before the question is put I should like to make the alternative proposal that we adjourn tomorrow at 3. 30 p.m. rather than adopting this motion.

I remind you that the Special Senate Committee on Science Policy has had to postpone two meetings in the last few weeks owing to the fact that it did not have the power to sit while the Senate was sitting. Tomorrow afternoon Mr. Drury, the Minister of State for Science and Technology, is again ready to appear before us. I do not think that meeting should be further postponed. Therefore, rather than allowing the Standing Senate Committee on Banking, Trade and Commerce to sit while the Senate is sitting, I think the Senate should adjourn by 3. 30 p.m.

Senator Langlois: Honourable senators, without giving an undertaking, I may say that the information I have allows me to envisage the possibility of a short sitting tomorrow afternoon. We shall certainly endeavour to adjourn earlier than usual in order to enable these two committees to meet without their unduly interfering with the work of this chamber.

Senator Grosart: Honourable senators, this motion and Senator Lamontagne's comments on it once again put before us, first, the problem of committees sitting while the Senate is sitting and, second, the conflict of committee meetings.

I cannot speak for senators on the other side, but I can say that for those of us on this side, although we are trying to do our jobs as best we can, the problem remains intolerable. I do not know what the Leader of the Government intends to do or what the committee which was set up some time ago to resolve the problem is doing, or what it has reported or intends to report, but I would suggest to the Leader of the Government that the time has come when this intolerable situation should be brought to an end.

I do not know what arrangements he has in mind, but it is important for us to realize that, as senators, we are required to attend here to do our duty, whether it is in the Senate or in committees, and it is embarrassing to those of us on this side on occasions when there is not a single opposition senator available to attend a committee meeting. That this should be so is not in the interests of the Senate.

For those reasons, I think Senator Lamontagne's suggestion, unless better arrangements can be made, makes a good deal of sense. I am well aware of the problem which has arisen here. Last week Senator Lamontagne had arranged for the Minister of Public Works and the Minister of State for Science and Technology to be available to the Science Policy Committee. He did that, I know, on the assumption that the Senate would adjourn fairly early, as it had for several Wednesdays.

● (2010)

At that particular time I think there were 20 senior officials of the government, including the minister, waiting and expecting to be called. Their time was wasted because the Senate, though quite properly, carried on its discussion of bills and resolutions then before it.

I think, if we are going to have motions, in terms of which leave is asked for committees to sit while the Senate is sitting, it would be at any rate a *pro tempore* solution if the time of adjournment of the Senate was decided upon by the Senate. This would at least avoid the situation which occurred last week, which as far as I am concerned was not in the interests of the Senate, and as a result of which 20—am I correct, Senator Lamontagne?—officials of various departments of government were called here, expecting to meet the committee, and then had to be told that their attendance was not required because the Senate was still sitting. We have to resolve this situation in some way, and I hope the Leader of the Government will, to use a colloquial phrase, bite the bullet and do something about it.

Senator Perrault: Honourable senators, I want to suggest that more than one person in this chamber needs to bite the bullet. I want to assure you that conversations and correspondence have flowed back and forth for some time between the opposition and the government on this particular matter. Indeed, a proposed solution has been sent to the official opposition, and a counter proposal has been made. Let me now propose that a meeting be held tomorrow morning between representatives of the official opposition and representatives of the government to solve the problem.

The senator is really speaking to the general problem of scheduling committee meetings in the Senate. I agree with him that it has become an intolerable problem, which is rendered particularly difficult for an official opposition with rather reduced numbers. I want the honourable senator to know that we on this side are very sympathetic to this dilemma, and I agree that decisions have to be made.

Honourable senators know that we had a coordinating committee which advanced a number of ideas. In my view we must establish one person, be it one of our members or an official from the public service, who will be placed in the position of making the necessary committee meeting decisions. I want the honourable senator to know that if the official opposition will cooperate in having a meeting tomorrow morning, I think that we can resolve the situation once and for all. As I have said, there have been several written and verbal communications concerning this problem over the past weeks.

Senator Flynn: I have been waiting.

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

Motion agreed to.

ADMINISTRATION OF JUSTICE

ALLEGATIONS OF INTERFERENCE BY CABINET MINISTERS—QUESTION

Senator Flynn: Honourable senators, may I direct a question to the Leader of the Government in connection with the allegations of interference made by Mr. Justice Mackay? I should like to know whether, since these allegations have resulted in the Minister of Justice's asking the Chief Justice of Quebec to inquire only as to whether the judges concerned felt aggrieved, or had any complaint about the interference which was alleged, and since we have a clear admission from the Minister of Public Works that he intervened in a certain case being dealt with by Mr. Justice Hugessen, a report has been received from Chief Justice Deschênes about the sentiments and the reactions of the judges? It appears clear that this is a matter that should be dealt with right away. Is the government prepared to say something about the manner in which it intends to prevent such interventions from happening again, and if it intends to correct the situation by penalizing those who have obviously been guilty of unjustified interference in the functions of the judiciary?

Senator Perrault: Honourable senators, it has yet to be demonstrated whether there was any interference, justifiable or otherwise.

Senator Flynn: It is admitted.

Senator Perrault: Let me remind the honourable senator that the Minister of Justice of Canada specifically asked the Chief Justice of Quebec to advise whether there had been undue influence or interference on the part of cabinet ministers with respect to the judicial functions of certain of his associates on the bench. A report has not yet been received, but I want to assure the house that the government is prepared to take the appropriate and necessary action should this action be justified by the report of the Chief Justice. But the government certainly does not intend to give any further instructions to the Chief Justice. His investigation has not yet been completed.

I know that many honourable senators in all parts of this chamber were gratified over the weekend when the news appeared that Mr. Justice Mackay had issued what was, in effect, an apology to the Honourable Jean Chrétien for certain allegations originally made by him and reported in one of the well-known newspapers of this country.

Senator Flynn: Honourable senators, on a question of privilege for the Senate, my question was not answered by the Leader of the Government. He mentioned the retraction by Justice Mackay, but that does not change the fact that Mr. Chrétien admitted that he had made a telephone call to Judge Aronovitch, and I am saying that this mere fact is unethical and should be condemned.

The second point is, and my question was, whether Chief Justice Deschênes said that the judges felt that they were being influenced or that anyone was trying to influence them. The mere fact of the admission clearly made by Mr. Drury that he talked to Justice Hugessen is something that should be condemned out of hand. We do not really need the advice of Chief Justice Deschênes as to whether or not the judges felt unduly influenced. This is a practice that should be condemned by the government, and there should be no delay in doing so. There should be no waiting and trying to cover up the whole thing by asking Chief Justice Deschênes to tell us of the reaction of the judges. I do not think the reaction of the judges has any real bearing on the essential point here. I say that Mr. Drury's admission is clear enough evidence of an unwarranted interference in the administration of justice for the government to act immediately.

Senator Perrault: Honourable senators, perhaps we can take some gratification from the fact that the Leader of the Opposition has never been appointed to the bench, because he seems to take the position—

Senator Flynn: I am a lawyer.

Senator Perrault: Yes, there are various qualities of lawyers, and lawyers have different attitudes on many, many matters.

Senator Flynn: Thank God!

Senator Perrault: Yes, thank God, and in making our courts operate it is very important that lawyers do take different points of view. But surely, honourable senators, in fact—

Senator Flynn: Answer my question.

Senator Perrault: I hope to get to the reply to your question, but in fact the Leader of the Opposition is telling this chamber that he does not want to be confused with the facts because his mind is made up. The majority of honourable senators do not subscribe to that doctrine. They are waiting for a report of the facts from the Chief Justice.

Senator Flynn: Answer my question.

Senator Perrault: Secondly, the incredible statement that the honourable senator has made that despite the fact that Justice Mackay has issued a substantial retraction, an admission that there was no undue influence or interference—

Senator Flynn: That is not what I said. I deny that.

Senator Perrault: Well, that is the implication—

[Senator Perrault.]

Senator Flynn: I deny that!

Senator Perrault: The honourable senator said that—

Senator Flynn: No.

Some Hon. Senators: Order, order!

Senator Perrault: The honourable senator stated that despite the fact of the retraction, the Honourable Jean Chrétien is still guilty of "unethical" conduct and should be "condemned".

Senator Flynn: I did not say that.

Senator Perrault: Again thank the good Lord that the honourable senator has never occupied a position on the bench. I want to ask him if at any time he has ever asked a judge about the weather or if he ever discussed with a judge any matter about the health of his family. If he has, did he regard this conduct as "unethical" and a fact which should be "condemned"? The Honourable Jean Chrétien's conversation with this particular judge, Judge Aronovitch, I believe, related to the date on which a certain case would be concluded.

Senator Smith (Colchester): That is sufficient in itself to be wrong.

● (2020)

Some Hon. Senators: No, no.

Senator Perrault: Mr. Justice Aronovitch himself said that this did not constitute any undue interference in his function.

Senator Flynn: You do not seem to know much about the law. Just ask your colleague if he would do it.

Senator Perrault: Honourable senators, I know not what the policy of the Official Opposition may be with respect to matters relating to justice. However, I can tell you that this government does not intend to condemn anyone out of hand until all the facts are known. We know now that at least one third of the so-called "facts" alleged by Justice Mackay are unsubstantiated.

Senator Flynn: You know all the facts that are important. It is not the reaction of the judges that counts; it is a question of the actions of your ministers.

Senator Smith (Colchester): I should like to ask the Leader of the Government if he is willing to assert that there is any denial that Mr. Chrétien called the judge in question as to the decision which the judge was going to make and the time it was going to be made?

Some Hon. Senators: No, no.

Senator Goldenberg: There is no question about it. Mr. Chrétien did not inquire about the decision, but asked when the decision would be made.

Senator Flynn: All right; he did not have to.

Senator Perrault: Honourable senators, there seems to be a great passion to engage in a witch hunt by certain members of the Senate—a fact which I think is to be deplored. It is clearly on the record that there was no ministerial inquiry as to the nature of the pending court decision. The inquiry related solely to the date upon which that decision would be made and no one now accuses the Honourable Mr. Chrétien of any impropriety in that

matter. Indeed, there has been a retraction from Mr. Justice Mackay. I simply appeal to the house—what else would certain honourable senators require?

Senator Smith (Colchester): One requires a member of the cabinet to stay away from a judge until that judge makes his decision. That is what is required.

Senator Flynn: On a question of privilege, I think that if the Leader of the Government wishes to be fair he will recognize that Mr. Justice Mackay only said he would withdraw the allegation about Mr. Chrétien because he was not aware personally about the facts.

Some Hon. Senators: Oh, oh.

Senator Flynn: That was hearsay, I agree, and I am not in the least defending Mr. Justice Mackay. However, I say that Mr. Chrétien admitted himself that he telephoned the judge to inquire when the decision would be made. When a minister of the Crown telephones a judge and says that he is interested even as to the date of a decision, it influences a judge. Maybe it should not but very likely it could. That is why I say it is unethical. It may not be important in this particular case, but there should be some rules as to ministers of the Crown getting in touch with judges about cases that are before these judges.

Senator Benidickson: Have you never spoken to a judge?

Senator Flynn: Never about a case before him.

Senator Perrault: Honourable senators, far from commenting on the integrity of a judge who makes serious allegations on the basis of hearsay and rumor, which is another question, it seems to me that at this point it has been demonstrated clearly that in the allegation relating to Mr. Chrétien, Mr. Justice Mackay most certainly based them on a hearsay conversation. This has been clearly substantiated.

Senator Flynn: It was not made by Mr. Chrétien.

Senator Perrault: We now suggest that we await the report concerning the other alleged incidents from one of the outstanding jurists in this country.

Senator Flynn: Cover-up.

Senator Perrault: Is that the kind of accusation the honourable senator wishes to make against the Chief Justice of Quebec?

Senator Flynn: The government is simply delaying a decision it must make as to these facts, which are very important.

Senator Perrault: Honourable Senator Flynn, I am on my feet and I believe I have the floor and I know of your abiding respect for the rules of this house. Let us wait until we receive the report. Let us see what the report from the Chief Justice contains and then appropriate action can be taken.

Senator Flynn: It has no bearing on the question I put to you. You are avoiding the question.

TRANSPORTATION

PACIFIC WESTERN AIRLINES—POSSIBLE MOVE OF HEAD OFFICE TO CALGARY—SUPPLEMENTARY QUESTION

Senator Austin: Honourable senators, I should like to return to the subject of a question put to the Leader of the Government on March 3 in the matter of Pacific Western Airlines. The government leader advised that he hoped to be in a position at this time to provide further information. In addition I would ask the leader whether it is true that the President of Pacific Western Airlines, Mr. Donald Watson, has resigned, or was fired yesterday, because he refused to accept political direction from the Province of Alberta to the effect that the company's main business and the bulk of its employees should be relocated in Alberta?

I should like to ask also whether the Leader of the Government has information as to whether the Province of British Columbia has as yet made a formal intervention before the Canadian Transport Commission in order that the status of the Province of Alberta shareholdings of the airline company be examined in the public interest and, if not, whether he can tell us what position the Province of British Columbia has taken in that respect?

Senator Perrault: Honourable senators, I have some information. I hope to have more available tomorrow afternoon. It was confirmed in Ottawa today that indeed there has been a termination arrangement concluded with the President of Pacific Western Airlines, Mr. Donald Watson, and that this termination arrangement was concluded over the weekend.

In reply to the second part of the question, information reached Ottawa today that the Minister of Transport and Communications for British Columbia has contacted the Canadian Transport Commission and has served notice that should Pacific Western Airlines be unwilling to reconsider the transfer of personnel and facilities to Alberta, and, to quote the minister, "should the airline be unable to convince the Canadian Transport Commission of its commitment to commercial aviation and balanced regional development," the Government of British Columbia will oppose the acquisition of a controlling interest in Pacific Western Airlines by Alberta.

Senator Austin: Would the Leader of the Government have any objection to the Standing Senate Committee on Transport and Communications inquiring into this matter and receiving testimony from Mr. Donald Watson, Mr. Hugh Horner, Minister of Highways and Transport for Alberta, and Mr. Jack Davis, Minister of Transport and Communications for British Columbia?

Senator Perrault: Honourable senators, that particular proposal is now under study and more information may be available tomorrow.

FOREIGN AFFAIRS

SALE OF NUCLEAR REACTORS TO INDIA—QUESTION

Senator Manning: Is the Leader of the Government in a position to make a statement to the house on the present status of Canada's negotiation with India on the sale of nuclear reactors? The Leader of the Government is familiar with recent press reports. Can he confirm whether those reports are correct?

Senator Perrault: I must take that question as notice. I shall endeavour to have a reply as quickly as possible, hopefully tomorrow afternoon.

ANTI-INFLATION PROGRAM

FERRIES OPERATING BETWEEN PRINCE EDWARD ISLAND AND NEW BRUNSWICK, PRINCE EDWARD ISLAND AND NOVA SCOTIA, AND NOVA SCOTIA AND NEWFOUNDLAND—POSSIBLE INCREASE IN FARES—QUESTION

Senator Bonnell: Honourable senators, can the Leader of the Government in the Senate inform us if the government has yet made any decision to increase the rates this year on the ferries operating between New Brunswick and Prince Edward Island, Nova Scotia and Prince Edward Island, and Nova Scotia and Newfoundland?

Senator Perrault: Honourable senators, as far as my personal knowledge is concerned, no decision has yet been reached. However, I shall take that question as notice and endeavour to obtain information from the Department of Transport for tomorrow afternoon's sitting.

MARINE SAFETY

BRITISH COLUMBIA FISHERIES—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators, may I attempt to provide the answer to a supplementary question asked by Senator McDonald?

Senator Grosart: Which Senator McDonald?

Senator Perrault: He is listed in the *Hansard* proceedings of the house as Senator McDonald. I understand it was Senator McDonald from Saskatchewan.

● (2030)

Senator Macdonald: It was McDonald, not Macdonald.

Senator Perrault: I am not as well versed in Scottish history and folklore as are some other members of the Senate. The question was:

> I am wondering if the Leader of the Government could tell us what the air element of search and rescue on our coasts consists of.

The question of what the air element of search and rescue on our coasts consists of falls under the jurisdiction of the Department of National Defence. The Canadian Coast Guard operates helicopters for the primary purpose of the maintenance of navigational aids. In the event of a search and rescue incident, top priority is given to allocating the helicopter to that incident under the direction of the Rescue Coordination Centre, provided the weather conditions permit.

The disposition of the Canadian Coast Guard helicopters is as follows:

Newfoundland Region:

2 helicopters at St. John's Newfoundland.

Maritimes Region:

9 helicopters at Dartmouth, Nova Scotia; 1 helicopter at Charlottetown, P.E.I.; 1 helicopter at Saint John, New Brunswick.

Laurentian Region:

8 helicopters at Quebec, Quebec; 1 helicopter at Sorel, Quebec.

Central Region:

2 helicopters at Prescott, Ontario; 1 helicopter at Parry Sound, Ontario.

Western Region:

5 helicopters at Victoria, British Columbia; 1 helicopter at Prince Rupert, British Columbia.

I am informed by the deputy leader that the two helicopters at St. John's, Newfoundland are shipborne. In addition, two helicopters and one fixed wing DC-3 aircraft are based in Ottawa for pollution patrols. Out of 31 helicopters operated by CCG, four are owned by DOE and operated on their behalf.

PROVINCE OF NEWFOUNDLAND

FINANCIAL ASSISTANCE FOR COME-BY-CHANCE REFINERY—QUESTION ANSWERED

Senator Perrault: Honourable senators, I should like to reply to a question asked by Senator Austin with respect to financial assistance for the Come-By-Chance refinery. He asked "whether this government or the government of the Province of Newfoundland has a policy with respect to the continued operation of that project."

The only government assistance provided by the federal government in the construction of the Come-By-Chance oil refinery was in the amount of $23 million for the wharf. That money was to be recovered on a user-fee basis. There is some money still outstanding on that account.

Senator Benidickson: Quite a bit.

Senator Perrault: DREE also provided indirect assistance by development of certain infrastructural complexes in the area. It seems now as though the Come-By-Chance oil refinery will be mothballed for the next two years. There has been no request for further federal government assistance.

MARINE SAFETY

REQUEST FOR LOCATION OF AIR SEA RESCUE UNIT IN NEWFOUNDLAND—QUESTION

Senator Carter: Honourable senators, I should like to ask a question of the Leader of the Government arising out of his reply to a question put by Senator McDonald.

Would the leader request his colleagues in the cabinet to reconsider the cabinet response to the request from Newfoundland that one unit of the Air Sea Rescue Service be located in Newfoundland.

Since the beginning of the year, we have lost six fishermen who have gone adrift in small boats. Their rescue was not effected mainly because the units that are stationed on the mainland cannot reach these boats in time. I understand that it takes a couple of hours after setting out before they can begin the search, and during those two hours it has often been the case that the weather has changed with the result that the rescue could not be effected. Since every minute in these situations is of vital importance, it is essential that at least one unit be established in Newfoundland itself.

I understand that the cabinet response to this request has never been favourable, but I would urge the Leader of the Government to impress upon his colleagues in the cabinet the importance of acceding to this request.

Senator Perrault: I want to assure the honourable senator that I will bring this suggestion to the attention of the Minister of National Defence and the Minister of Transport, as well as any other minister involved in the very serious problem which he has outlined for us.

ANTI-INFLATION PROGRAM

FERRY SERVICE BETWEEN PRINCE EDWARD ISLAND AND NEW BRUNSWICK—POSSIBLE INCREASE IN FARES—QUESTION

Senator Bonnell: Honourable senators, supplemental to my previous question, realizing that to this point in time there apparently has been no suggestion by the government that there will be an increase in fares between New Brunswick and Prince Edward Island, or Nova Scotia and Prince Edward Island, or Nova Scotia and Newfoundland, I wonder if the Leader of the Government in the Senate would bring to the attention of the members of the cabinet that in the event they get such a notion, under the terms of union between Prince Edward Island and Canada, signed in 1873, the federal government is to maintain and operate and defray all costs of such service. Therefore, under the British North America Act, the federal government is totally responsible for all costs of operating those ferries, and for it to impose fares greater than what we have now would be contrary to the Constitution and the British North America Act.

Senator Grosart: Question.

Senator Bonnell: Should this matter be raised in cabinet, I would hope that the Leader of the Government will put forth that view and see that the Maritime provinces, Newfoundland and Prince Edward Island particularly, are still part of Canada at no increase in ferry fares.

Senator Perrault: I want to assure the honourable senator that the government is actively concerned with transportation policy from coast-to-coast and is deeply aware of its historic commitment to the Atlantic provinces. At the same time, as the honourable senator is no doubt aware, many transportation routes in this country are operating at enormous deficits. The task of the government, therefore, is to examine its historical responsibility in relation to the cost of operating services in various parts of Canada, not just the Atlantic provinces.

I shall most certainly bring to the attention of my cabinet colleagues the eloquent plea made this evening by Senator Bonnell.

Senator Grosart: It was a question. You didn't notice.

FERRY SERVICE BETWEEN NORTH SYDNEY AND PORT AUX BASQUES—POSSIBLE INCREASE IN FARES—QUESTION

Senator Rowe: Honourable senators, supplemental to the question put by my colleague from Prince Edward Island, I wonder if the Leader of the Government would convey to his colleagues in the cabinet the very important point that the terms of union between Newfoundland and Canada are completely specific in this regard. There are no ifs, ands or buts.

Senator Grosart: Is this a question?

Senator Rowe: Yes, the question is coming up. The terms of union state that the Government of Canada will maintain a ferry service between North Sydney and Port aux Basques. That is the term.

I wonder if the Leader of the Government would convey the simple fact to his colleagues in the cabinet that the intent of that term—and without that term there would have been no union whatever between Newfoundland and Canada—that the intent of that term can be defeated by the CNR, or by whoever operates the ferry, by simply raising the rates to the point where no one can afford to use the ferry service.

Senator Perrault: Your useful contribution to this discussion, Senator Rowe, as opposed to an exchange of question and answer, will be brought to the attention of my colleagues in the cabinet.

THE LATE HONOURABLE ALEXANDER W. MATHESON

TRIBUTES TO FORMER PREMIER OF PRINCE EDWARD ISLAND

Senator Bonnell: Honourable senators, before the Orders of the Day are called, I should like to call the attention of honourable senators to the passing of a great Canadian, the Honourable Alexander W. Matheson, Q.C., Premier of Prince Edward Island from 1953 until 1959, and County Court Judge for the County of Queens from 1967 to 1974.

● (2040)

Alex Matheson was a great Canadian, a great Islander and a great citizen. He added tremendously to the life of Islanders and, in fact, it has been said of him that he brought Prince Edward Island from darkness to light when he inaugurated the rural electrification program in 1954.

He was elected to the Legislature of Prince Edward Island in 1940, for the second district of Queens County. He was defeated in 1943, and became law clerk of the Legislative Assembly until the 1947 general election. In 1947 he moved to the old Murray Harbour District, which I represented for some years, and was re-elected. He and I were colleagues in that constituency until he retired in 1966.

Alex Matheson was Minister of Health and Welfare under Premier Jones, and he became premier of the province on the elevation of Premier Jones to the Senate. He and the former leader of this house, the Honourable Paul Martin, working on behalf of the federal government, were responsible for the institution of the national health grants in Prince Edward Island, which resulted in the better health of the province's citizens. It was through these times, while he was premier, that the province was able to participate in and become part of the national hospital insurance scheme.

During his term as premier, and as a judge of the county court, he always had a great interest in sports and in the church. He was an elder and a trustee of the United Church of Canada for many, many years. He was president of the golf club. He was interested in all types of sport, but

most important of all he was interested in the people of Prince Edward Island.

To his wife and his family I extend my deepest sympathy.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, March 4, the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Salter A. Hayden: Honourable senators, I can say that what has been said so far in this debate has been said very frankly and very bluntly. There are things that could have been said which might have been more pertinent to Bill C-58, which we have before us, and, if I am permitted, I shall take a few minutes and try to sift out the important substance of the bill.

I should say at the beginning, knowing my good friend Senator Davey was going to sponsor the bill, that I read reasonably carefully Volume 1 of the report of the Mass Media Committee, and I recognized where some of his inspiration came from—if, indeed, he needed any inspiration, because he gave every appearance of being favourably full of the subject.

However, there are a few observations I would make before I call your attention to the bill. These are things that are said in the Mass Media Committee's report, the tenor of which has to do with the quality and standing of two magazines, *Time* and *Reader's Digest*, and the contribution they have made to the economy of Canada and to the enhancement of their own treasury during the period that they have been operating in Canada.

If you will tolerate me for just a few minutes—I do not believe in reading and I know you do not like listening to someone reading, but just to get the background of what *Time* and *Reader's Digest* represent, I will read from page 158 of the Mass Media Committee's report:

> *Time* and the *Digest* have been publishing Canadian editions since the early 1940s—

Then, further down the page:

> Since then, both magazines have made earnest attempts to become members in good standing of the Canadian publishing community, and have continued to prosper. The Canadian circulation of the *Digest* and its French-language affiliate, *Sélection du Reader's Digest*, has climbed from 1,068,000 in 1960 to 1,448,000 in 1969.

He continues on the same page:

> *Time's* circulation has increased from 215,000 in 1960 to about 440,000 today.

Then he says about *Reader's Digest*:

> The company has about 450 employees in Canada, including an editorial staff almost as large as that of *Maclean's*.

At page 159 the report says:

> There is no question that both magazines have been good corporate citizens. It is also clear that their financial success is not solely attributable to the competitive advantage they enjoy. Both are excellent products—perhaps the most skillfully edited mass magazines in history. Quite apart from their competitive advantages, *Time* and the *Digest* have prospered because they produce the kind of magazines that a lot of readers and advertisers prefer.

[Senator Bonnell.]

Then there is a note on page 160 that I think I must refer to. The note is this:

> As far as one distinguished observer is concerned, that status is already pretty marginal.

That is, the status of the Canadian magazine industry. The note continues:

> Senator Grattan O'Leary favoured the Committee with his views on what's happened to the magazine industry since he made his report, and concluded that, in his judgment, the existing Canadian magazines have declined in quality. "Were I making my report today," he added, "I would not have been so concerned for those magazines . . . I am not so sure that *Time* magazine today is not the best Canadian magazine we have."

The only other thing that I want to refer to at this moment is that the options put forward in this report are discussed. The first conclusion was:

> Somehow, despite the economic pitfalls, a way must be found to create more equitable competitive conditions in the Canadian periodical industry. The competitive advantage that *Time* and *Reader's Digest* enjoy is greater today than it was when O'Leary made his recommendations in 1961.

Then the report goes on to support the O'Leary recommendations.

Another option which the committee considered was to recommend legislation that would prevent *Time* and *Reader's Digest* from publishing their magazine and accepting advertising in Canada. As the report says:

> Kick them out. Send them home. Their American editions would still be available in Canada, but only as overflow circulation. As competitors for Canadian advertising dollars, they would be expelled . . .

● (2050)

> But the Committee rejected this option too. Singling out for expulsion two corporations that have done business in Canada for nearly three decades, and done it with flair and fairness and excellence, struck us as somehow inconsistent with the Canadian character. We were mindful too of the economic dislocation this could cause. Unemployment in the cause of sociocultural development is a lot more palatable for its proponents than it is for the participants.
>
> That led us to a third option, the one we now recommend. Not surprisingly, it is exactly what O'Leary wanted nine years ago: we recommend that the exemptions now granted *Time* and *Reader's Digest* under Section 12A of the Income Tax Act be repealed, and the sooner the better.

If I may stop there, I will go on with my explanation of the bill. There are several grandfather clauses in the present Income Tax Act. While section 19 of the present Income Tax Act would make non-deductible advertising expenses paid by advertisers to *Time* and *Reader's Digest*,

the grandfather clause, which validates them up to a certain date from which they qualified, provided an exemption to the advertisers from being obliged not to deduct the expenses they paid. This bill repeals the grandfather clauses. It then goes on, in connection with section 19, to leave us in a position creating considerable difficulty. The position is as to what you must do, and what condition you must be in, in order that you may be a Canadian issue, and while all these conditions are set out in section 19(5)(*a*) of the Income Tax Act, there are certain ones which cause the trouble. For example, at the end of section 19(5)(*a*) it says what these qualifications or conditions are which you must meet if you are trying to gain a position as a Canadian issue. It does not include an issue of a periodical:

> that is produced or published under a licence granted by a person who produces or publishes issues of a periodical that are printed, edited or published outside Canada, or

And this is the real one.

> the contents of which, excluding advertisements, are substantially the same—

Those are the words which create the problems as I see them, as many of the public see them, and as is evident in judgments in a number of cases, to which I could refer, which have interpreted what "substantially the same" means—even decisions of the House of Lords. But it says:

> —are substantially the same as the contents of an issue of a periodical, or the contents of one or more issues of one or more periodicals, that was or were printed, edited or published outside Canada.

The other requirement is, of course, 75 per cent Canadian ownership. There is an old saying, which I am not sure I can quote correctly but which goes something like this: "One ain't good without t'other." In order to gain your qualification as a Canadian resident and trying to interest investors in acquiring a 75 per cent interest, naturally they are concerned to know that the company into which they are buying is a viable company and that therefore its publication will qualify as a Canadian issue of a periodical. In other words, can it be established that it is not substantially the same as a periodical published outside Canada? This situation obtained from the time the bill was introduced in January 1975, and efforts were being made acquire knowledge as to how "substantially the same" was to be interpreted. Finally, on October 23, 1975, the Minister of National Revenue issued a press release in which he said it would be interpreted as 80 per cent of the contents. If 80 per cent of the contents were not Canadian publication, then it could not qualify as a Canadian issue.

I shall stop right there and say that I will not refer to the legal decisions. I have them, and quite a number of them, as a matter of fact, are decisions of the House of Lords in England. They say that "substantially the same" means that the judge trying the case must study all of the things which occur in the context in which those words are used, and then come to a conclusion as to whether he can say that that constitutes "substantially the same". But the one thing you cannot do is to settle on a percentage. They say that that is legislation, and that only Parliament can do that. There is even a case in the Canadian courts concerning the excess profits tax which is to the same effect.

The situation in October, then, was that the people who were in great difficulty to determine their position before the end of December 1975—because that was when this amending bill came into force—were told that it was 80 per cent. How does one meet that in that short space of time? How does one hold on to his investors or potential investors while trying to meet that requirement?

The problem would have been solved if there had been a longer time allowed for the determination of this issue. For instance, the Canadian Radio and Television Commission, which was facing the problem of divestiture of ownership and the problem of content, held hearings and gave notices. Persons could apply to the commission. Moreover, the commission started out with a Canadian content of 45 per cent; it has now moved up to 60 per cent. It started with Canadian ownership of 60 per cent, and has now moved up to 80 per cent. The proceedings for divestiture have taken five years to be fully completed in relation to all the people who were affected. To me, that was the orderly, the sensible and the intelligent way to deal with the question, because there were things of great importance at stake. All the investment that these companies had in Canada was at stake, and there was no certainty at that time as to what the result was going to be.

● (2100)

One can read the printed proceedings of the committee of the other place and see the explanation which the Minister of National Revenue gave. At that time he said the big hurdle that *Reader's Digest* faced was that of ownership, and that looked like the one that would trip them. The second problem would be the problem of the 80 per cent Canadian content.

Of course, this is only one opinion and you can measure it yourself, but before I would invest any money in an operation of this kind I would want to know that it was viable, that it had income from the business it was carrying on, and, as a matter of law, that it was entitled to carry on that business. So much for this side of the question.

I now move to another issue that arises in this bill. This is to be found in clause 3, which concerns the limitation re advertising expense on broadcasting undertaking. In other words, this has to do with broadcasting, and ownership and content. One thing that disturbs me very much in this bill is to be found in clause 4(2) which reads as follows:

> Section 3 shall come into force on a day to be fixed by proclamation.

I wanted to know what that meant, so I looked at the minister's opening statement on January 23, 1975 in the House of Commons. He was talking about this amendment affecting broadcast operations and, according to *Hansard*, he said:

> I should also like to take this opportunity, Mr. Speaker, to inform the House, on behalf of my colleague, the Minister of Communications (Mr. Pelletier), that the government also intends to recommend to the House a similar amendment to the Income Tax Act in his area of responsibility, to the effect that no deduction against income be permitted for advertising time on a non-Canadian broadcasting station for an advertisement directed primarily to a market in Canada. Such an amendment would not, of course,

come into effect until sufficient advertising time is available on Canadian stations to satisfy Canadian needs adequately.

Here, as I see it, is a provision we are asked to vote in favour of, giving the government of the day, whatever it may be, a blank cheque to determine when the broadcasting tax provisions are to come into effect.

I do not know what your reactions may be, but as far as I am concerned I can see many problems arising with regard to the method of determining when, and in what circumstances, the needs referred to have been satisfied by Canadian operations, so that this tax can be applied, and the expenses of advertisers who use non-Canadian broadcasting facilities for advertising made non-deductible.

I can tell you that a difficulty we have now in respect of the Toronto stations is that most of them are sold out to the end of 1975, according to the latest figures I have from Statistics Canada. I have here a list of prime time availabilities, and I believe prime time is from 6 p.m. to 12 p.m. It shows CTV as sold out until May 1975; CFTO, sold out until April (85 per cent sold out for entire 1975); CHCH, most shows sold out until January 1975; CHUM, sold out until end of December 1974.

Senator McDonald: Senator Hayden, you have lost me. You say they are sold out to some point in 1975, which we have passed. On what date was this report made, so that we know what period of time these advance sales cover?

Senator Hayden: This report was made at the end of 1974, and I asked for an up-to-date statement. The up-to-date information, to the extent that I could get it, is that a situation is expected in 1976 that will be similar to the one that existed in 1975. I cannot verify that.

Senator Davey: I wonder if the honourable senator would agree that in Toronto there are now two more television stations on the air, and that they are not nearly sold out.

Senator Hayden: What counts for a television station is audience. You have to have an audience or you do not sell advertising. The problem is that simple.

What I want to point out is that the small dealers in advertising have a problem because they cannot commit for 52 weeks. They are looking for commitments for short periods, and therefore their costs are bound to be higher. In addition to this, if you cannot get time on Canadian stations, and you want to advertise your product in Canada against competitive products that are being advertised by both other Canadian firms and foreign firms, then you have to go to a station outside Canada to get that time. If it costs you more because this tax applies, then that is a penalty you have to pay.

There are all these problems involved in the determination as to when this provision is to be declared to be in force, and all these questions have to be settled. It is not "by guess and by God" that we determine this or we determine that. The CRTC, in my view, appears to be a well-conducted operation, and while at times one may disagree with some of the things they do, they have shown reason, sense and thoughtfulness in their approach to the problem, realizing that things just cannot be done in a day.

[Senator Hayden.]

• (2110)

But on that aspect of things, in my view we should not approve clause 4, which provides that at some unknown date in the future, when the government decides that the needs of the Canadian market have been satisfied, they can bring this into force. We do not know when that is going to be, and we do not know under what circumstances it is going to be. It might be tne worst possible thing to do at the particular time. It might be that other steps should be taken in the way of providing other methods of approach to the problem of advertising. Even my friend Senator Davey, in speaking the other day, mentioned the fact that advertisers may get tired of waiting, and who knows what other advertising media may develop in the meantime. Yet we are asked to commit ourselves to this taxation at that time, and by proclamation.

I am not making any rash assumption. I am just saying that I do not know what the situation will be at that time, and therefore I am not in favour of supporting a clause which gives an unlimited right to the particular minister and the government—even if it should be a government decision at that time—to say by Order in Council that they proclaim this section to be effective, thereby bringing this tax into force.

Senator Flynn: Might I ask my honourable friend what alternative he would suggest? We cannot simply delete that clause because the situation would then be even worse.

Senator Hayden: It seems to me that we had a situation like this to deal with once before, and we provided for it, I think, by calling for some action on the part of both houses of Parliament by way of special resolution.

Senator Flynn: For the coming into force?

Senator Hayden: Yes, and only when he had the agreement of both houses was the minister empowered to bring the particular provision into force.

Senator Flynn: We have done this in reverse—that is, to end legislation—but to do it to bring legislation into effect would be something new. At any rate, it is an interesting suggestion.

Senator Hayden: Certainly this is not the first time, and I do not consider what my friend has said as meaning that he is opposed to this idea simply because it is something new.

Senator Flynn: Oh, no, not at all. I said it is an interesting suggestion.

Senator Hayden: Well, we have ventured before and successfully made our point. But all I am doing at the moment is calling the attention of the house to a situation which exists and which I consider to be serious.

Honourable senators, this speech seems to be growing longer—the more I say the more remains to be said—so I had better look to concluding what I have to say tonight. I should tell you that there was an earlier approach to this problem of how to deal with non-Canadian periodicals, and that was back in 1956. The then government levied an excise tax of 20 per cent on the value of the edited materials, but a succeeding government repealed that legislation. Then we had the O'Leary Commission, and following

that we had the report of the Special Senate Committee on Mass Media, and then we had section 19 in the form in which it now exists. Now we have this approach which is to remove the exemption and to levy a tax on the publisher. Under the Excise Tax Act the tax was collectible from the publisher, but here the removal of the exemption nails the person who spends the money on the advertising. That is the big difference, and it is a substantial one.

Honourable senators, I should like to bring this to a conclusion as quickly as possible. I hope I have not exhausted you. I know I have not exhausted the subject, and I know I have not exhausted myself, but one must apply reason to everything and leave something for another day, if there is to be another day on this. And this brings me to a point that has been bothering me. In fact, it has given me a great deal of concern.

This is an important bill. It deals with communications, and it deals with the rights of people who have located in Canada on the basis of the law as it was at the time they settled here, who carried on successful operations, and who have been good citizens for perhaps 30 years. Now suddenly they are faced with a situation where they can either pack up and leave or, if they had time, they could try to accommodate themselves to the requirements as set out in Bill C-58. But the bill is really in force now, because it will come into force retroactively when the proclamations are made, and then all they can do is to ship their product into Canada and deal with it in the best way they can.

It seems to me that in that situation, if *Time* and *Reader's Digest* in particular elect that course and remain as non-Canadian periodicals and ship into Canada, and compensate the Canadian advertisers by a reduction in advertising rates, they may create a not-too-uncomfortable state for themselves. They might not make as much money as they otherwise would make, but then the question arises as to who else is going to make the money that they don't make. As I say, I have examined that situation and I cannot figure out who else is going to make the money that they don't make.

Here again I could quote from Senator Davey and the report of the Mass Media Committee, but I shall not take the time to do so this evening because the hour is late. These people are excellent operators. They know how to conduct business and they know how to make it pay. Therefore, we have to accept the situation that they would be tough and successful business competitors. So, as I say, this question strikes me as being an important one, and I am sure it strikes all honourable senators in the same way. While there may be many different views in this chamber as to the ultimate disposition of this bill, my own feeling is that before there is any finality it should be referred to committee where everybody, pro and con, representatives of the government and representatives of the people on the other side, can appear and express their views.

● (2120)

I leave this thought with you, that we should find some way of referring this to committee, even if it is necessary to adopt the procedure of adjourning our consideration of the bill and referring the subject matter to the committee to determine the reactions. I offer this as a suggestion, because I am sincerely concerned that it should not be said, particularly if the bill were to fail to pass, that the Senate had cut off the opportunity for full consideration in committee, a consideration which might have produced a different result. I have told my point of view and my concern, and I hope those senators who take part in the discussion will give some thought to it.

Senator Davey: Honourable senators, I should like to ask Senator Hayden a question. I was confused by one part of his speech with respect to radio broadcast statistics. I am not sure precisely what they represented and for what year?

Senator Hayden: I said that the CTV prime time availability was sold out until May 1975. Then I added, when I was asked a further question as to how it would relate to 1976, that similar results are expected. CFTO was sold out until April, and 85 per cent sold out in the year 1975. I then mentioned two other stations.

Hon. Paul Desruisseaux: Honourable senators, first I should like to congratulate those who have spoken on this bill. I single out Senator Hayden for his usual brilliant understanding and clear explanation of the legislation. I will undertake to discuss this bill from a different angle. Innocent as it may look Bill C-58, if passed, might well cause some unexpected backlash in the mass media. I feel there is wisdom in having a non-partisan vote on this bill. My personal belief, contrary to the views of some, is that Bill C-58 is highly controversial. In speaking about this bill I am conscious of doing so with a background of 12 years of experience in the mass media field, but not having any present connection with it. Some years ago I experienced the launching, financing, operation and expensive development of a French edition of a *Time-Express* type weekly magazine, *Sept Jours*, with an ideal 75 per cent Canadian news content. After less than five years of struggling it had to fold up. The number of subscribers could not support and justify its continued publication in Quebec. Its advertising was much too scarce to give us hope. This was because the magazine remained unacceptable to the readers, and its distribution remained unattractive to advertising agencies. *Time* is said to have 500,000 Canadian subscribers. Some have said that the number is a little smaller than that, but it is still an impressive figure. *Newsweek*, which makes no waves and has no special Canadian news section, has less than half the circulation of *Time* in Canada and less than half the amount of Canadian advertising. Even at that, the performance of both these magazines remains impressive. Why have these magazines made such a successful penetration in Canada despite Canadian magazines, which are owned in the majority, if I am informed rightly, by one publishing company? The five or six pages of Canadian news must have helped considerably. I believe that their well-edited Canadian news and the excellent and generally reliable reporting of world news helped to create the outstanding Canadian edition of *Time*. I believe this is why it was accepted by both Canadian advertisers and subscribers. I cannot find any other major reason.

In the broadcasting field, I also had the experience in Sherbrooke, 30 miles from the United States border, of starting a TV station and a radio station, and the expansion and development of two other radio stations. They all had to compete with the clear reception of incoming United States and Canadian TV and radio stations in that

area. Eight TV stations and at least 40 radio stations offered excellent and clear reception. There was also cablevision with one of the highest number of home subscribers per capita in North America. May I say that under this competition we managed to prosper and make others envious of our success. In the 12 years that I was closely connected with it, there was no pressure, no demand for support, subsidies or protective legislation such as Bill C-58.

● (2130)

As I study the financial statements and editorial policies of Canadian advertising and publishing companies involved in this situation, I find they are favoured by Bill C-58, and I cannot believe that it is really needed for their assistance at this time.

From my acquired experience in the mass media field, I wonder about the advisability of passing this bill as it is; about the help and protection it will really give Canadians in general; about the sort of reprisals it could produce in the months following its adoption; about our giving in to the views of ultra-nationalism that it expresses; and about the trend that could be created in future legislation. I can think also of other problems which the legislation could bring.

From my study of the bill, it does not seem right that we should pass it, and thus take away the rights of one and pass on the pecuniary advantages to another who, for all intents and purposes, is a competitor. It would seem to do away with equitable legislation for all, and provide direct help to particular favourites who are not really in need of such help—and this at the expense of a periodical that has accomplished excellent work and has made itself sufficiently Canadian to be unreservedly accepted by the greatest number of Canadian subscribers any magazine in Canada has had.

Like many honourable senators, I look forward to a study of Bill C-58 by a Senate committee. Personally, I will be satisfied by such a study, and will reserve my final assessment until the report of that committee and its recommendations have been tabled in this chamber. Such a reassessment of Bill C-58 is necessary, and is of some importance in the light of the views expressed by all concerned. There will be no mistake in enacting this kind of legislation if it is done in the name of ultra-nationalism or political convenience.

On motion of Senator van Roggen, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 10, 1976

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

Prayers.

DISTINGUISHED VISITORS IN GALLERY

CONSULS OF THE BALTIC NATIONS

Senator Yuzyk: Honourable senators, we have some distinguished visitors in the Senate gallery. I should like to introduce Mr. I. Heinsoo, Acting Honorary Consul General of Estonia, and Mr. E. Upenieks, Acting Honorary Consul of Latvia.

Hon. Senators: Hear, hear.

Senator Yuzyk: We had expected also the Acting Honorary Consul General of Lithuania, but something must have detained him. These gentlemen are here on the occasion of the fourth annual Baltic evening, which is being held tonight and will be attended by the Honourable Speaker of the Senate, several ministers of the government, ambassadors, and representatives of some of the embassies, many honourable senators and members of the House of Commons. We warmly welcome each of the consuls individually in the Senate chamber.

Hon. Senators: Hear, hear.

DOCUMENTS TABLED

Senator Perrault tabled:

Report on operations under the Regional Development Incentives Act for the month of November 1975, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

INCOME TAX CONVENTIONS BILL

REPORT OF COMMITTEE PRESENTED

Senator Hayden, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, reported that the committee had considered Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel, and had directed that the bill be reported without amendment.

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

Senator Lang moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

CRIMINAL LAW AMENDMENT BILL, 1975

REPORT OF COMMITTEE PRESENTED

Senator Goldenberg, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, reported that the committee had considered Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act, and had directed that the bill be reported with the following amendments:

1. *Page 21:* Strike out lines 31 to 34 of the French version and substitute therefor the following:

   "301.1(1) Quiconque

   a) vole une carte de crédit,"

Senator Flynn: Honourable senators, I think that most of the amendments which were accepted by the committee were of a technical nature. Could we not dispense with reading the amendments and have them placed on the record? There is no point in trying to understand what is meant by the amendments by merely having them read. The substantial amendments which should have been made have not been made.

• (1410)

(*The amendments follow:*)

1. *Page 21:* Strike out lines 31 to 34 of the French version and substitute therefor the following:

   "301.1(1) Quiconque

   a) vole une carte de crédit,"

2. *Page 21:* Strike out line 36 of the French version and substitute therefor the following:

   "que une fausse,"

3. *Page 22:* Strike out line 2 of the French version and substitute therefor the following:

   "mise, ou"

4. *Page 22:* Strike out lines 1 and 2 and substitute therefor the following:

   "is guilty of

   (e) an indictable offence and is liable to imprisonment for ten years; or

   (f) an offence punishable on summary conviction."

5. *Page 27:* Strike out lines 11 to 13 of the French version and substitute therefor the following:

   "431.1(1) Nonobstant la présente loi, lorsqu'un prévenu, inculpé conjointement ou non, s'esquive au cours de son procès,"

6. *Page 27:* Strike out line 31 of the French version and substitute therefor the following:

   "prévenu du fait qu'il s'est esquivé."

7. *Page 27:* Strike out lines 39 and 40 of the French version and substitute therefor the following:

"(4) Lorsque le prévenu qui s'est esquivé au cours de son procès ne comparaît pas, alors que son procès se poursuit, sont avocat"

8. *Page 42:* Strike out the heading immediately following line 22 of the French version and substitute therefor the following:

"Prévenu qui s'esquive"

9. *Page 42:* Strike out lines 23 to 26 of the French version and substitute therefor the following:

"471.1(1) Nonobstant la présente loi, lorsqu'un prévenu, inculpé conjointement ou non, s'esquive au cours de l'enquête préliminaire,"

10. *Page 43:* Strike out line 4 of the French version and substitute therefor the following:

"prévenu du fait qu'il s'est esquivé."

11. *Page 46:* Strike out line 28 of the English version and substitute therefor the following:

"that there was a legitimate excuse for his"

12. *Page 63:* Strike out line 23 of the French version and substitute therefor the following:

"sent article, la présente loi ou tout article de la présente loi entre en vigueur à"

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

Senator Goldenberg: Next sitting.

Motion agreed to.

FOREIGN AFFAIRS

CHANGE IN COMMITTEE MEMBERSHIP

Senator Macdonald, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Smith (Colchester) be substituted for that of the Honourable Senator Asselin on the list of senators serving on the Standing Senate Committee on Foreign Affairs.

Motion agreed to.

LIBERAL CAUCUS

INVITATION TO MEMBERS OF OPPOSITION—QUESTION

Senator Flynn: Honourable senators, may I ask the Leader of the Government if the invitation sent to the members of the small group on this side of the house to attend the Liberal caucus this afternoon means that he is not satisfied with the majority he already has in this place?

Senator Perrault: Honourable senators, the zeal which the government supporters have for democracy and their desire for freely-expressed collective opinion on all subjects perhaps exceeded itself this afternoon when invitations to the government caucus were sent inadvertently to the Leader of the Opposition. I must regretfully inform honourable senators on the opposite side who, I am sure, would like to spend two or three hours in caucus with government supporters, that the invitation was sent inadvertently. I hope that no offence was given.

Senator Flynn: Does that mean that the doors will not be open to us?

Senator Perrault: In short, they will not.

Senator Forsey: Does the Honourable the Leader of the Government mean that we are not willing to receive converts?

Senator Perrault: There is always a Liberal light in the window.

Senator Flynn: Senator Forsey is a case in point.

TRANSPORTATION

CANADIAN NATIONAL RAILWAYS—SERVICES IN NEWFOUNDLAND—QUESTION

Senator Duggan: Honourable senators, I should like to ask the Leader of the Government in the Senate the following question. Will the leader please ascertain from the Ministry of Transport if the Canadian National Railways has sought, or is contemplating seeking, permission to increase CNR bus passenger fares in Newfoundland, and if so, to what extent?

Is it correct to assume that the government will not favourably consider payment of any deficit incurred by bus passenger service in Newfoundland as it would do if the deficit were incurred by a passenger train service, as it does in all other parts of Canada?

Did Canadian National Railways seek the advice and authority of the government prior to converting the passenger train service to a so-called passenger bus service and, if so, what advice did the government give Canadian National Railways, and also what authority in this respect?

Senator Perrault: Honourable senators, because of the detailed nature of this inquiry I must take it as notice. However, I can reply to part of the question asked by the honourable senator, which was similar to that posed yesterday by Senator Bonnell. Today I have been in contact with the office of the Minister of Transport. The discussion was with relation to ferry rates and other transportation rates in the Atlantic provinces. No final decision has been made about alterations in the rate structure. It is hoped that it will not be too long before a decision is reached.

PACIFIC WESTERN AIRLINES—POSSIBLE MOVE OF HEAD OFFICE TO CALGARY—QUESTION ANSWERED

Senator Perrault: Honourable senators, with your indulgence, may I attempt to provide some information which was promised today regarding Pacific Western Airlines. I was informed today that officials of Pacific Western Airlines have been invited by the Canadian Transport Commission to submit information regarding the recently announced intention of that company to relocate its head office and, possibly, other operations of the company from British Columbia to Alberta. While the question has yet to be determined whether the Canadian Transport Commission has jurisdiction over the relocation of the head office of Pacific Western Airlines, it is the view of the Commission that if the cost of relocation is such that it will reflect itself in an increased cost in fares or services to the general public, such increases could well be disallowed.

Honourable senators are aware of the recent decision of the Federal Court of Canada regarding Pacific Western Airlines in which the court ruled that the Government of Alberta, as the majority shareholder of Pacific Western Airlines, stood in no privileged position in that regard and would have to submit its effective acquisition of the airline to the approval of the Canadian Transport Commission. The possibility exists that the Federal Court decision will be appealed by the Province of Alberta to the Supreme Court of Canada. However, the Canadian Transport Commission finds itself in agreement with the Federal Court decision and, therefore, it is anticipated that hearings will be held by the Canadian Transport Commission regarding the propriety of the transaction which has seen the effective acquisition by the Government of the Province of Alberta of Pacific Western Airlines. Should such hearings proceed, it is anticipated that a number of witnesses will be heard.

FOREIGN AFFAIRS

SALE OF NUCLEAR REACTORS TO INDIA—QUESTION ANSWERED

Senator Perrault: Honourable senators, I have a reply to a question which was asked yesterday by Senator Manning regarding the present status of Canada's negotiations with India on the sale of nuclear reactors. The mandate of the negotiating team was to continue talks held under the authority of the Secretary of State for External Affairs since the Indian nuclear testing of May 1974. A series of discussions in Ottawa, New York, Bombay and New Delhi have helped to identify the positions of the two governments, and at the latest round of talks in New Delhi resolution of certain contentious issues has been agreed upon on an *ad referendum* basis.

The Secretary of State for External Affairs will study the report to be submitted by Mr. Michel Dupuy, the Assistant Undersecretary of State for External Affairs, who has had the responsibility for carrying these talks forward. The Secretary of State for External Affairs will then wish to examine with his colleagues whether the area of agreement which has been achieved with the Indian authorities is sufficient to allow for completion over the coming months of Canadian shipments to the safeguarded RAPP reactors built with Canadian support.

The first reactor was in operation before the nuclear explosion, but certain shipments remain outstanding for the second nuclear reactor. In the absence of new and strengthened safeguard arrangements with India covering these two reactors, nuclear shipments to them will not be resumed.

Senator Manning: May I ask the government leader a supplementary question? Has the Government of Canada considered the desirability of a total ban on the sale of nuclear reactors and the export of any fissionable material, in view of the fact that it is generally agreed that there can be no such thing as an iron-clad guarantee that this material will not at the same time be used for military purposes?

Senator Perrault: Honourable senators, I understand that the subject of a total ban has not as yet been discussed. The policy to this time has been to adjudge each application on its merits and attempt an assessment. However, should there be a proliferation of nuclear testing and weaponry as a result of Canadian nuclear resources having been made available to other countries for peaceful purposes, a total ban is an option which would have to be considered by the government.

● (1420)

Senator Forsey: Honourable senators, I wonder if I might ask a supplementary of the Leader of the Government. Is it the intention of the government when this agreement with India is finally approved by the Cabinet to allow it to be debated? Perhaps I should not have used the word "allow"; to have it debated, give an opportunity to have it debated in this house and the other place?

Senator Perrault: Honourable senators, agreements of this type which have been achieved in the past have usually been the subject of rather lively discussion either in this chamber or in the other place, and I would think that any agreement ultimately proposed to resume shipments of fissionable materials and other components of reactors to India would, similarly, be the subject of discussion here. I can see no ban on any such discussion.

Senator Flynn: In any event, I am quite sure that the Leader of the Government is fully aware that it does not depend on the government whether we wish to discuss it in the Senate.

Senator Forsey: Hear, hear.

Senator Perrault: Of course, that observation is entirely valid. Any honourable senator may initiate an inquiry here and, in effect, make certain that we have a full and complete debate. It really does not depend upon any decision of the government.

Senator Grosart: Honourable senators, I have another supplementary— perhaps a more important one—for the Leader of the Government. Will the proposed agreement be submitted to Parliament before the government undertakes to enter into a contractual arrangement with the Government of India, or will it merely be presented after agreement has been reached? Will it be discussed in advance in Parliament?

Senator Forsey: That is what I should have asked.

Senator Perrault: Honourable senators, I will obtain further information with respect to this point and I must take the question as notice. It has not been the practice in the past to submit to Parliament, either to the House of Commons or to the members of this chamber, the final decision on matters of this kind. However, I will certainly have this matter discussed with the Secretary of State for External Affairs.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. George van Roggen: Honourable senators, in speaking today on Bill C-58 I wish first to compliment Senator Davey on his very able presentation of the bill,

and to say at the outset that I support the principle of the bill, at least insofar as clause 1 is concerned. In fact, at policy conferences of my party over the past several years I have supported resolutions calling for the elimination of what in effect was special consideration for *Time* and *Reader's Digest* under Canadian tax law. My reason for this was based on the quite simple principle that I did not feel that two taxpayers should be singled out for special benefits under taxing legislation, any more than that two taxpayers should be singled out for special penalties. All of this is not to say, however, that I agree in the slightest with the manner in which the government has perverted this simple bill before it even becomes the law of the land by being passed by this Senate and given Royal Assent, but I will come back to that later.

Let me first deal with clause 3 of the bill concerning Canadian advertising on border broadcasting stations. All of the early discussion proposing this legislation, and most of the attention given to it by the press since it was introduced more than a year ago, has concentrated only on clause 1—so much, in fact, that the measure is commonly known as the "*Time* and *Reader's Digest* bill." Clause 3, which applies the print-media principle to border broadcasting has simply been piggybacked on to the bill, and has received little attention when it should have received a great deal of attention. In effect, this clause provides that a Canadian advertiser may not deduct as a business expense the cost of advertising to Canadians on a United States border broadcasting station, whether radio or television.

Let me acknowledge immediately that in my view Canada is confronted with a serious problem in this area. Of course, it can be argued that it is a two-way problem and examples can be given of Canadian stations benefiting from U.S. advertising, as in the case of radio and TV stations in Windsor, which is across the river from Detroit. There is not the slightest doubt, however, that where 200 million people live beside 20 million people, and most of the 20 million are huddled along the border, the spill-over effect of broadcasting is nearly all one-way.

The Canadian Radio-television and Telecommunications Commission has recognized this problem for some time, but in my opinion has launched upon a policy of confrontation rather than negotiation in seeking a solution. By its policy statement of July 1971, the CRTC recommended three forms of attack against U.S. border stations: first, the amendment of the Income Tax Act to disallow as business expense any advertising dollars spent on those stations; second, the deletion by cable companies of the commercials in programs emanating from such U.S. stations and the sale of the blanked out time by Canadian broadcasters and Canadian cable operators (commonly called commercial deletion and substitution); and third, the elimination of simultaneous programing to the advantage of the local Canadian stations (commonly called simultaneous program substitution).

The first of these items is before us in this bill. The second, namely, commercial deletion and substitution, is being implemented in some areas and it is being insisted upon by the CRTC as a condition of renewal of cablevision licences. The third item, namely, simultaneous program substitution, has been in effect for some time and is not causing insurmountable difficulties.

[Senator van Roggen.]

A further closely related policy of the CRTC is that Canadian stations should have first call on cablevision channels, with which principle no one can argue save where a spurious application of the principle is threatened for the sole purpose of making it as difficult as possible, if not impossible, for Canadians to watch U.S. stations on cablevision. This quite properly causes a public outcry, as was recently the case in Vancouver. Here serious harm was done, in addition, to the cause of bilingualism, not by proposing a French station in Vancouver but by proposing a French station be given space on cablevision at the expense of knocking off one of the major U.S. network stations—a contrivance to get rid of an American station, which was technically quite unnecessary.

What was the problem the CRTC faced that led to these policies? Canada has the largest cable television system in the world, for the very good reason that our situation is unique among the nations of the world. We live next to a highly developed populous nation. Most Canadians have grown up accustomed to watching American programming on American stations and on Canadian stations. The desire of Canadians to have a choice as to what they can watch has resulted in a multi-million dollar Canadian cable television business, because Canadians are prepared to pay a monthly fee for the right to choose between several Canadian and several United States stations or networks. This has resulted in U.S. border stations developing large Canadian audiences, in some cases solely as a result of Canadian cablevision.

● (1430)

It is obvious from all audience surveys that Canadians like to watch United States programs—not exclusively but regularly. Canadian advertisers wishing to reach Canadian audiences quite logically buy advertising time on these border stations. It is estimated that Canadian advertisers spend around $20 million per annum in this fashion. It is important to keep this sum in perspective against the approximately $800 million of governmental and advertising revenue presently enjoyed by the Canadian industry when considering the complaints of the Canadian stations that they require this comparatively small additional revenue to be able to produce the quality of Canadian programs required by the CRTC and by Canadians generally.

The bill before us and the deletion and replacement policy were designed to divert this $20-odd million per year to Canadian stations. But there are two problems with this, the first of which is that it will not work, for a number of technical reasons. I shall not take the time of honourable senators to deal with those now, but will leave it to the committee. Second, this act, coupled with commercial deletion and substitution, is the wrong way to go about solving a border problem with a friendly neighbour, particularly one with which we conduct $40 billion to $50 billion worth of trade per year. I totally reject this policy of six-guns drawn at high noon at the 49th parallel as the proper method of resolving Canada-United States problems.

The provisions in clause 3 of the bill simply will not solve the problem unless accompanied by commercial deletion, which is presently beginning to be enforced by the CRTC in some areas. Many thinking Canadians consider this to be a form of theft, or at least morally reprehensible,

regardless of its legality, unless some form of compensation is paid for the programs that are taken and enjoyed.

So what is the solution? Has nobody thought of negotiating a treaty? That is the way I think business should be conducted between two friendly neighbouring countries, and it is surely a Canadian initiative to seek such negotiations, because it is Canada which considers it has the problem. Instead, we headed down the road of confrontation with the United States, and potential deprecation of the right of freedom of choice of our own citizens.

It will be recalled that last fall it was the United States that requested meetings to discuss this problem. Canada gave every appearance of agreeing to such meetings only reluctantly, and when they did take place in Ottawa in January 1976, our press reported that we insulted the very-high-level United States delegation with a low-level Canadian team. I trust the committee will inquire into this allegation.

Honourable senators might ask: What sort of a treaty would we negotiate? That would be up to the negotiators, with expert advice from the industries concerned. But let me quote Mr. Pierre Juneau, the former chairman of the CRTC, who said to me one day, while discussing a similar type of situation, that he had great faith in the ingenuity of the human mind to find solutions to such problems.

I urge the Senate committee studying this bill to either reject this clause in its entirety or, at the very least, to obtain the strongest form of undertaking from the government that clause 3 will not be proclaimed—it will be noted that it does not come into force until proclamation, as Senator Hayden pointed out last night—

Senator Flynn: How do you know?

Senator van Roggen: —until full, complete and sincere negotiations toward a treaty with the United States, covering all aspects of the national and regional problems of border broadcasting, have taken place. There could be significant benefits to Canada in such a course, far in excess of the comparatively few dollars this clause and the deletion policy are ostensibly aimed at.

This bill, its proponents, and all of the parliamentary, press and public debate I have heard, have totally forgotten the most important Canadian of all—the viewer and reader. We have heard nothing about his or her interest, what he or she wants to see on TV, or what magazine he or she wants to read. No, what we hear about are poor, down-trodden, multi-million dollar broadcasters and publishers. The interest of the viewer or reader is callously talked out in terms of "markets"—markets that these broadcasters and publishers want the government to protect as private fiefdoms against competition from outsiders.

I do not think Canadian viewers and readers want to be bartered about as market figures. I think they want—as is their inalienable right in a democracy—to be free to watch what they want, read what they want, and listen to what they want, just as they have the right to associate with whom they want. I also believe they wish to have, and are entitled to have, as much variety as possible among those competing for their attention. The rights of 20 million Canadians must take precedence over the privileges of some members of a single industry.

I turn now to the *Time* and *Reader's Digest* portion of the bill. As I stated at the commencement of my remarks, I support the principle underlying what one would normally expect to read into the simple wording of clause 1 of this bill, namely, no special exemption for *Time* and *Reader's Digest*.

First, let us look at the background against which we are debating clause 1 of the bill. In 1965, Canadian tax law was changed so that Canadian advertisers could not deduct as a business expense moneys spent on advertising in foreign publications. It also provided that a periodical published in Canada is not "Canadian" if it is "substantially the same" as a periodical published outside Canada. So, in effect, the yardstick to be applied after the amendment contained in this bill is passed would be whether *Time* or *Reader's Digest* are "substantially the same" as their American counterparts. Therefore, on the introduction of this bill a year ago, *Time* and *Reader's Digest* had to decide whether to fight the bill, cease publication in Canada, or comply with the bill. *Reader's Digest* decided to fight the bill, and *Time* magazine decided to comply with the bill.

Senator Laird: It is the other way around.

Senator van Roggen: No. I said that *Reader's Digest* opted to fight the bill which, in their case, they did successfully, and that *Time* magazine decided to try to comply with the bill by qualifying under it.

In *Time's* case, the requirements for Canadian directors was easy and 75 per cent Canadian ownership was tentatively arranged subject to the magazine's being in a position to continue in business by establishing that it was not "substantially the same" as the parent.

What would constitute "substantially the same"? A good and difficult question, but not insoluble, because lawyers and courts in Canada have built up a body of law over the years on such words as "substantial," "undue," "reasonable," and so on. These are words regularly used in legal documents and agreements.

As a result, *Time* magazine produced a mock-up of a proposed Canadian edition, not only with the Canadian section to which we are accustomed, but with a substantial portion of the balance of the magazine rewritten from a Canadian point of view for a total of over 40 per cent Canadian content. *Time's* lawyers gave it as their opinion that this sample publication was "substantially different" from the parent within the meaning of the law.

Time then approached the Department of National Revenue for a ruling on the mock-up, and after due consideration by officials of the Departments of Justice, National Revenue, Finance and, I believe, the Secretary of State, the government informally advised *Time* magazine at a meeting that its experts disagreed with their lawyers and felt that it would be necessary for the magazine to be at least one-half Canadian content in order to qualify, whereupon the officials of *Time* said they felt they could accomplish this and still retain the character of their magazine.

● (1440)

This was a perfectly normal, legitimate meeting between opposing sides in the Department of Revenue for a discussion on this ruling with that department, and they were not too far apart. It became apparent then that *Time* could and was determined to comply with the law and would be

able to continue publishing in Canada. That was the moment, honourable senators, when principle went out the window and expediency came in the door, because the government realized that this American company not only could comply with the new law but intended to do so and to create a Canadian news magazine under the law.

What was the government's reaction to this state of affairs? Well, it was to start ratcheting up the percentage figures on Canadian content, high enough to make sure that *Time* magazine, or for that matter *Reader's Digest*, could not comply, and this point was reached at 80 per cent. And there is no question in my mind that they would have gone to 90 per cent or 100 per cent if necessary.

This 80 per cent ruling of the Minister of National Revenue can hardly be dignified by being referred to as a tax ruling of the department. It is rather a wholly political decision of the government, and was accompanied by the extraordinary statement of the minister that it was pointless for the taxpayer to appeal the ruling because if it appealed, and succeeded, then a further bill would be introduced by the government to give statutory authority to the ruling. These antics are not before us in the words of this bill, but they must be of deep concern to us all.

I was brought up to cherish our system of government for a number of reasons, not the least of which was that we enjoyed a rule of law and not a rule of men. But, as I said a moment ago, in this case principle has gone out the window, and we are faced with a rule of men, not a rule of law.

Another remark attributed, I understand, to either the Minister of National Revenue or the Secretary of State was to the effect that not to have made the 80 per cent content ruling would have pulled the rug out from under the bill. What rug? What hidden objectives underlie this bill that are not spelled out in it? What objectives are woven into the rug which we do not know about? I trust the committee will endeavour to find out.

In the meantime the two ministers concerned continued to defend vigorously before the committee of the other place the need for the banishment of both *Time* and *Reader's Digest* from Canada so as to eliminate the so-called editorial dumping claimed to be so injurious to the Canadian magazine industry. But after the bill left the committee in the other place, the government, having abandoned principles of law, now decided to abandon principles of fairness by making a "sweetheart" deal with *Reader's Digest*—also through manipulation of the rulings of the Department of National Revenue, and by giving special status to one magazine instead of two.

So now the argument against editorial dumping has been thrown out the window, and we appear to be left with no need for this legislation any more, unless we are simply to justify it as a statute of Parliament to prohibit the publication of one specified magazine in Canada. If that is the case, then the bill is incorrectly intituled and an appropriate title should be inserted by the committee.

As I have indicated, honourable senators, I concur that this bill should go to committee, and I shall vote accordingly.

[Senator van Roggen.]

Let me paraphrase what I understand to be Senator Hayden's concerns, as expressed here last night. Our problem with this bill is that it is not, as they say in the Coca-Cola advertisements, the real thing. The real thing is in ministers' rulings and future proclamations. I hope the committee will be able to find a mechanism whereby this bill is delayed while the 80 per cent rule is tested in court, by government reference or otherwise, and while efforts are made to negotiate a treaty with the United States on the border broadcasting problems. Then, and only then, will the government be in a position to bring forward a complete and specific bill dealing with these problems which Parliament can consider on its real merits.

Senator Carter: Would the honourable senator permit a question?

Senator van Roggen: Certainly.

Senator Carter: The honourable senator referred to clause 3, and the broadcasting problems that might develop therefrom, in rather general terms. I should like to ask him a question about a specific case, but before I do so, and in view of the friction that could develop between the United States and Canada from the broadcasting clause, clause 3, I want to state that I fully support his suggestion that we should work out some understanding or agreement with the United States, and then deal with the separate cases within the framework of whatever treaty or agreement we can negotiate.

To come back to the specific case I have in mind, information that has come to my desk indicates that the station in Bellingham—I think its call letters are KVOS—is the counterpart in the electronic media of *Reader's Digest* in the print media. I understand that this station is registered in Canada as well as in the United States; that there is a Canadian company which deals with broadcasting; and that it employs a considerable number of Canadians as writers, film makers and reporters. It seems to me that it is pretty much the counterpart of *Reader's Digest*. I wonder if the honourable senator would care to make a comment on that parallel.

Senator van Roggen: Quite frankly, honourable senators, I would hesitate to draw a parallel between broadcasting stations and magazines, because I think it would be over-simplistic and dangerous. There are certain superficial appearances of similarity that exist—for instance, Senator Carter mentioned the particular station at Bellingham having a Canadian company, and so on—but I point out that it is operating in an area which on this side of the boundary is subject to regulation by a regulatory authority, which magazines are not. The station on the Canadian side of the boundary is not subject to American regulatory authority, and the station on the United States side of the boundary is not subject to Canadian regulatory authority. So to draw a parallel between that and magazines or periodicals is dangerous and misleading.

With respect to my recommendations concerning clause 3 of the bill, I would stress that I do not see clause 3 in isolation and in itself creating an irritant insofar as Canada-United States relations are concerned. This is an internal Canadian tax measure, which is our business entirely.

However, I do say that it is essential to look at the overall problem, to look at the overall attack of the government in all its facets against that problem, and to take them in their totality concerning Canada-United States relations. This is why I suggest a treaty, because a treaty would not just deal with the taxation side of this thing; it would deal with the fact that we do not regulate their stations that broadcast to Canada and, quite properly, they do not regulate ours. It could deal with matters of cable deletion, and who should be the recipient of whatever value may remain in that spot after the deletion and the program has been used. Such a treaty could include a mechanism whereby the obvious problems, which in my remarks I have admitted Canada has, could be recognized and dealt with—that is, recognized and dealt with at the negotiating table, and not by confrontation.

On motion of Senator Smith (Colchester), debate adjourned.

• (1450)

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—ORDER STANDS

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to the question of total free trade as an economic consideration for Canada.—(*Honourable Senator Grosart*).

Senator Grosart: Honourable senators, it is my intention to move the adjournment of this debate. The reason I am not proceeding now is that the subject matter of the motion is before one of our committees, and I think I shall be able to make a better contribution after that committee has considered this matter of free trade.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, March 11, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Department of Energy, Mines and Resources for the fiscal year ended March 31, 1975, pursuant to section 5 of the Department of Energy, Mines and Resources Act, Chapter E-6, R.S.C., 1970.

QUARANTINE ACT

BILL TO AMEND—REPORT OF COMMITTEE

Senator Carter, Chairman of the Standing Senate Committee on Health, Welfare and Science, reported that the committee had considered Bill S-31, to amend the Quarantine Act, and had directed that the bill be reported without amendment.

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

Senator McGrand moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

TEMPORARY IMMIGRATION SECURITY BILL

REPORT OF COMMITTEE

Senator van Roggen: Honourable senators, I have the honour to present the report of the Standing Senate Committee on Foreign Affairs to which was referred Bill C-58—

Hon. Senators: Oh, oh.

Senator Flynn: It must be an obsession.

Senator van Roggen: It was a simple Freudian slip.

Senator Perrault: Carry on.

Senator van Roggen: It is Bill C-85, respecting immigration security.

The report was read by the Clerk Assistant, as follows:

The Standing Senate Committee on Foreign Affairs, to which was referred Bill C-85, intituled: "An Act respecting immigration security," has in obedience to the order of reference of Wednesday, March 3, 1976, examined the said bill and now reports the same without amendment.

Respectfully submitted,

George C. van Roggen,
Chairman

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

Senator Langlois moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

VISIT OF MEXICAN PARLIAMENTARY DELEGATION TO CANADA

NOTICE OF INQUIRY—JOINT COMMUNIQUÉ PRINTED AS APPENDIX

Senator Flynn: Honourable senators, I wish to give notice that on Tuesday next I will call the attention of the Senate to the visit of the Mexican Parliamentary Delegation to Canada from February 3 to February 11, 1976. With your permission, I should like to say that I do not intend to speak and that I have learned from other members of the Senate who were members of the Canadian delegation on that occasion, namely, Madam Speaker, Senator Asselin, Senator Neiman and Senator Lamontagne, that they do not intend to speak either. Therefore, with your permission we could dispose of this matter by having the joint communiqué printed as an appendix to today's *Hansard.*

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

Hon. Senators: Agreed.

(*For text of communiqué see appendix, pp. 1887-8.*)

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move, seconded by the Honourable Senator Perrault, that when the Senate adjourns today it do stand adjourned until Monday, March 15, 1976, at 8 o'clock in the evening.

Before the question is put, I should like to give a word of explanation, and at the same time outline the schedule of work for next week. In view of the heavy schedule of work between now and the Easter adjournment, the decision to adjourn until Monday evening instead of to the customary Tuesday evening has been made after consultation with the Opposition.

Senator Flynn: No, no.

Senator Beaubien: No, no.

Senator Langlois: They were in agreement with this change while expressing the reservation that this new schedule should be put into practice with a delay of one week, all of which was taken into consideration.

As honourable senators are well aware, it has become increasingly difficult to arrange a suitable schedule for committee meetings. Although both the Legal and Consti-

tutional Affairs Committee and the Foreign Affairs Committee have been sitting on Tuesday afternoons, there have still been too many committees meeting on Wednesday and Thursday. It has therefore been decided that the best solution to the problem would be for the Senate to sit on Monday and Tuesday evenings, starting next week, and from now on to devote Tuesday morning and afternoon to committee meetings. It is hoped that honourable senators will agree with this formula, which in essence is to give every committee a chance to have full attendance and time to carry out its deliberations without undue pressure.

In giving the usual outline of what can be expected for the coming week, I will deal first with the committees. On Tuesday, the Special Committee on Science Policy has called a meeting for 9 a.m. The witnesses will be officials of the Department of Industry, Trade and Commerce. At 9.30 a.m. there will be a meeting of the Joint Committee on Regulations and other Statutory Instruments. The Foreign Affairs Committee will meet in the afternoon at 2.30 to continue its study of Canadian relations with the United States, and the Legal and Constitutional Affairs Committee will meet at the same hour to commence its examination of the subject matter of Bill C-83, an act for the better protection of Canadian society against perpetrators of violent and other crimes.

On Wednesday, the National Finance Committee will meet at 9.30 a.m. to continue its examination of supplementary estimates (B) for the fiscal year ending 31st March, 1976. The Banking, Trade and Commerce Committee has tentatively arranged to meet at 9.30 a.m. This is not definite. There will be a meeting of the Special Joint Committee on the National Capital Region at 3.30 p.m.

On Thursday, the Foreign Affairs Committee meets again at 9.30 a.m. on Canada-United States relations, and it is expected that the Committee on Regulations and other Statutory Instruments will meet at 3.30 p.m. This has not yet been confirmed, but I am informed that the regular notice will be sent out in due course.

In the Senate we will proceed with third reading of Bill S-31 and Bill C-85, both of which were reported from committee today without amendment. We will continue with the second reading debate on Bill C-58, to amend the Income Tax Act. There are still a number of senators who have indicated their desire to speak on this bill. We will also continue with the second reading debate on Bill C-86, to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act. There are also other items on the Order Paper to be dealt with. We should receive Bill C-61, the Maritime Code, from the House of Commons before we meet on Monday.

Senator Flynn: Honourable senators, as has been mentioned by the Deputy Leader of the Government, we had some discussions about the necessity of the Senate's sitting on Monday night, thus changing our usual schedule, according to which we sit on Tuesday night. We understand fully the reasons why this change needs to be made, and we have no real objection to it. We on this side had suggested that possibly the same results could be obtained by sitting on Tuesday morning, and devoting Tuesday afternoon and evening to committee work because, in fact, the greater part of the Senate's workload is carried out in committees and not in the chamber itself. It seems that the decision of the Leader of the Government is that we should sit on Monday. We have no objection in principle, but we do have an objection in practice, and that is due to the fact that we did not have prior notice. We on this side of the house are few in number, and some of us have already made commitments which make it well-nigh impossible for us to be here on Monday evening next. In the circumstances, it seems grossly unfair to foist this new schedule upon us with so little warning. I would suggest to the Leader of the Government, and to honourable senators generally, that some consideration be given to this particular situation. I think that with notice of one week we can readily arrange to meet these new conditions, but without such prior notice, the situation becomes quite difficult. I was informed only at noon today, when I telephoned the deputy leader, that the intention was to sit next Monday evening. I knew we would have to start sitting on either Monday evenings or Tuesday mornings, but I was not aware the practice was to start next week. I think we all need prior notice before a change from the ordinary schedule is made, and it seems to me that the Leader of the Government should give consideration to our viewpoint. He knows very well that I have been very cooperative in trying to arrange schedules of committees, and so forth. But it is not by imposing a decision of this kind that he can expect to have continued cooperation from this side of the house, because it seems to me that one has to consider both sides of the house in these matters, particularly, as I have mentioned before, in view of the small size of the official Opposition. I feel we should have had prior notice, and I would call on the Leader of the Government to say that we will sit at 8 o'clock on Tuesday evening next, but that the following week we will sit on Monday evening, if it is the consensus of the Senate—or on Tuesday morning as we have suggested. Either solution would receive our cooperation and such a step is necessary in view of the heavy workload faced by our committees.

● (1410)

Senator Perrault: Honourable senators, if I may reply, it has become increasingly apparent that the workload which confronts the Senate—

Senator Grosart: You do not need to go through all that again.

Senator Perrault: I respect your right to be heard on the floor of this chamber, senator, and I would like you to hear my complete statement before making any further observations. It has become increasingly apparent that the workload facing the Senate means that we must extend our hours of work not only in the chamber but particularly in committees. In that regard there has been agreement on both sides of the house. The official Opposition has concurred in this viewpoint.

I should like to say at the outset that yesterday at noon we had a very useful and constructive meeting involving the Leader of the Opposition, other representatives of the Senate and myself to discuss the problems of meeting hours for committees. It was agreed that we had to investigate the possibility of, at least until the Easter break, meeting on Monday evenings and devoting a great deal of our Tuesdays to committee deliberations, with a sitting of the Senate on Tuesday evenings. It was agreed at that time—and I think the honourable Leader of the Opposition

will confirm this—that this message was to be brought to the respective caucus meetings yesterday of the parties represented in this chamber. A commitment was given to me as Leader of the Government that the matter would be discussed with opposition senators over the lunch hour. I, in turn, agreed to raise the matter in our government caucus yesterday afternoon. I must report to those who were not at the meeting that there was a unanimous view expressed that this scheduling change should be made. It was indicated at that time that it would begin immediately and that there would be no delay in the changing of the schedule. It was further agreed that should there be any difficulty in the caucus deliberations of the Opposition party in this chamber, the Leader of the Government would be informed after that meeting had taken place. It may be a misunderstanding, but in any case I have not been contacted personally by the Leader of the Opposition outlining any difficulties which may have presented themselves with respect to the possibility of having the Senate meet on Monday evening. The Leader of the Opposition was kind enough, after the meeting of his caucus yesterday, to indicate to me that another alternative should be considered, that of meeting at 11 o'clock on Tuesday mornings instead of Monday evenings. I wish to assure the Leader of the Opposition that his proposal was presented to government members in the Senate and duly discussed, but it did not find widespread support.

I regret that the proposal to meet Monday evening may be inconvenient to some, but in view of the extremely heavy committee load next week, as indicated by the long and complete statement of the Deputy Leader of the Government, I believe that we must proceed to this schedule of having the Senate meet on Monday evenings. In announcing this, in urging this course of action upon the Senate, I hope that it does not cause undue inconvenience.

Senator Desruisseaux: Honourable senators, if I may ask a question of the government leader, will this be the regular procedure from now on?

Senator Perrault: Honourable senators, may I clarify that once again? The proposal will be to test this new schedule until the Easter break. Depending on the work of the Senate, it may be that we will have to investigate the general scheduling of Senate activities after the Easter break. It may be that we should consider a number of suggestions which have been made, including the idea of concentrating Senate activity in longer work weeks when the workload is very heavy, then having weeks in which the Senate would not meet while the House of Commons may be meeting and, perhaps, vice versa at some point down the road. As some senators are aware, there have been informal discussions relating to the possibility of having the other place adjourn for certain extra days or weeks in order that members there may have more time to confer with their constituents. In my opinion our minds should be open to all sorts of innovative ideas, with the object of making certain that Parliament operates as efficiently and effectively as possible. And certainly we do not want senators travelling to meet here for little or no purpose when there is no work to be done. We must bear in mind that some senators fly thousands of miles every week, and if they are to come down here for merely three days of activity in the chamber, plus committee responsibilities, then we must question the manner in which we are scheduling our work.

[Senator Perrault.]

Senator Grosart: We have been questioning it for a long time.

Senator Perrault: Yes, the honourable senator says he has questioned the procedure for quite a while. I think it is quite right that we all question parliamentary practices and procedures. All too often people in Parliament are inclined to urge everyone else in the country to become more efficient, labour to become more productive and business to become more profitable. Perhaps we should look to our own parliamentary institutions and attempt to reform them.

● (1420)

Senator Flynn: Not by this method.

Senator Perrault: It is a long reply to the basic question asked by Senator Desruisseaux. The trial period will be until the Easter break, and then we shall assess the situation with our friends who represent the Opposition party in the chamber.

Senator Beaubien: Honourable senators, I should like to bring up one point. The Leader of the Government said we have a lot of things to do on Tuesday. We have committee meetings and committee meetings. But he wants us to come here on Monday night because there are meetings on Tuesday morning. He is afraid that the members of the various committees will not turn up unless there is a penalty attached, unless they are penalized for not being in the chamber on Monday night. It reminds me of the old army days when we made sure that the troops were in at eight o'clock at night because they had to be on parade the next morning at nine—otherwise they might not be sober and properly dressed.

I am not on any of the three committees scheduled to sit on Tuesday. Why should I have to come here on Monday night simply because someone wants to have a committee meeting at nine o'clock Tuesday morning? It is felt that unless senators are compelled to be here on Monday night they will not be available for committee meetings on Tuesday morning. I do not think it makes any sense. Certainly, when we have work to do we all pitch in; but what work are we going to do on Monday night, except to make sure that the troops are here? It seems to me that we have to try to make plans for what we have to do. We have been given only a couple of days' notice. It makes no sense at all.

Senator Perrault: Honourable senators, every senator in this chamber must assess how he wishes to perform his duties. If the honourable senator wishes to absent himself on Monday, that is a decision for him to take. All I can do is assure honourable senators that there will be a very lively and important debate on Monday night, and I would urge honourable senators to attend and participate in this democratic process.

Senator Beaubien: I think we can say that senators fall into three categories. There are those who live in Ottawa, and it does not make much difference to them; they can always pop in for a minute. There are those who live in other parts of Canada, and it is difficult for them to be here. Then there is the third category of senators who do not mind too much, because they will write in and say they

are on public business anyway. Those who try to live up to the rules and attend should be given some consideration.

Senator Grosart: Honourable senators, I must say that I for one welcome the news that at long last we are going to look to a solution to this problem. I am surprised, however, at what appears to be a lack of communication between the leader on the other side and the leader on this.

The Leader of the Government has indicated the process by which this decision was arrived at. There were discussions between the two leaders—I am quoting him; I am not speaking from personal knowledge. The matter was referred to both caucuses. The Conservative caucus suggested a second alternative. My understanding is that the government caucus considered it and rejected it, and I have no objection to that. The decision was made. I was told last night that this decision had been made, yet the Leader of the Opposition said he only learned about it at noon today.

I suggest that is not the way to achieve cooperation between the two leaders and the two parties officially represented in the Senate. A little more attention should be given to these matters. It makes no sense that I was told last night that this decision had been reached, and the Leader of the Opposition was not told until noon today.

The suggestion of the Leader of the Government is, in my view, a very reasonable one. I began my remarks by saying, "At long last . . ." This suggestion was made, to my knowledge, at an official meeting in the office of the Leader of the Government at least a year and half ago. It was discussed seriously then, and I think there was agreement on the part of many who were at that meeting that a solution of this type, which would make more time available on certain days for committee meetings was necessary. I am in full agreement with that. However, after such a long period of time, it does seem unreasonable that the Senate should be informed as late as 2.30 today that this schedule would go into effect Monday next.

Personally, it does not affect me at all, but it does seem unreasonable that after such a lengthy period of time there should be this precipitous decision. I would urge the Leader of the Government to reconsider what appeared to be his refusal to accept the suggestion put forward by the Leader of the Opposition. In the circumstances, that suggestion would tend to ease the situation of which I complain—that is, the lack of communication between the Leader of the Government and the Leader of the Opposition.

Senator Smith (Colchester): Honourable senators, as a very recent addition—or subtraction, depending upon your point of view—to this chamber, I hesitate to become involved in a discussion of this kind. However, it really involves our duties and obligations, and I think I can say, without too much exaggeration, that I have tried to be present at all sittings, and to do what I could and ought to do since becoming a member of the Senate, and I shall continue to do so.

Having had no notice and no expectation that a change such as the one proposed would occur, I find myself in a difficult position with respect to carrying out my other activities, against which there is no bar so long as I perform my senatorial duties. I have made certain very definite commitments for a number of Mondays—commitments which I would have difficulty in sloughing off on someone else, or in making alternative arrangements. This puts me in a difficult position, as I said, and I suspect there are quite a few others in the same position.

I do not live very far from here in terms of flying time, but in order to be here for a Monday evening sitting of the Senate, bearing in mind present airline schedules, I would have to be away from my ordinary residence for most of Monday. Although I have some leeway in this respect, I do not find it particularly satisfactory to face the penalty involved in missing a Monday evening sitting of the Senate, the purpose of which sitting would be to merely ensure my presence, as Senator Beaubien says, at committee meetings on Tuesday. It is difficult to appreciate the arrangement which brings that about.

● (1430)

I could not help but observe in the short time I have been here that the length of time the Senate takes to perform its necessary duties is not unduly long. It has always seemed to me that with some care in the scheduling of committee meetings and utilizing Tuesday afternoons, with the exception of some very special occasions, the committees could complete whatever work they are required to do by six o'clock on Thursday evening.

I unreservedly recognize that when a senator accepts appointment to the Senate he accepts the obligations that go with it, and if that takes five days a week or six days a week, he ought to accept that. All I am pointing out is this sudden change from the routine, which I am led to believe has been followed for a very long time, is bound to leave some of us in an extremely difficult position. I want to bring that to the attention of the Leader of the Government and honourable senators because so far as I can tell I shall not be able to be here this coming Monday and the Mondays immediately following. I do not want it to be thought that that is because I am not willing to perform my duties and obligations here. It is because historic experience has led me to make other commitments which are important to me and, I hope, important to others.

Senator Manning: Honourable senators, I am quite sure, if it is necessary to increase the number of sittings of the Senate to accommodate the work in both the house and the committees, we all recognize that that is the proper thing to do. I would not expect there to be any objection to it.

I would underscore the points that have been made, citing the problems which are created for many of us when changes of this kind in the established schedule are made without reasonable notice. It is not just a matter of inconvenience. I do not think the Senate can take into account inconvenience on the part of any individual member of the house in planning its work, but there are the very practical difficulties which exist.

To cite my own case, I am one of those who do not live in Ottawa, and I am away from the city when the house is not sitting. I have to travel 1,700 miles to be here. In the past year, I have missed some five or six sittings of the house simply because I received short notice that one was being called and it was impossible for me to get air transportation. Those are the practical problems. It is my practice to book transportation a month in advance on the basis of the established schedule. I do not know yet, but I am very

doubtful that I can get a flight back here in time for next Monday night.

It does seem to me, when we have a schedule which is established and has been in effect for a long period of time, and which all of us assume is the schedule of the house, that if it is necessary to make changes there should be at least a week's notice so that we do not encounter, not merely the inconvenience of cancelling personal commitments but the very practical problem of not even being able to be here at all because of transportation difficulties. I do not think a week's notice is reasonable for a change in a schedule that has been in effect for at least 18 months or two years.

The other suggestion I would offer has no doubt been considered. It has been mentioned that the work before the Senate is very light at the present time. There have been long delays in legislation coming to us from the other place. The Order Paper is fairly light in respect of legislation requiring serious attention. It seems to me the great volume of urgent work is in the committees, and I agree with the Leader of the Government when he says that right now there is a backlog of work in the Senate committees. In those circumstances, why cannot consideration be given to having the house sit for perhaps an hour each day, and devoting the remainder of the afternoon and evening to committee work? It does not seem businesslike to me to spend two and a half hours in the house with very little material requiring urgent attention, when our committees could be attending to the matters referred to them.

I would suggest to the Leader of the Government that there is latitude to allow an adjustment of the workload as between the house and the committees. The length of sittings of the Senate can be reduced until such time as more legislation comes to us from the other place, and that time can be used by the committees. I do not object to sitting four or five days a week, or whatever is necessary. However, I do think if consideration were given to an adjustment of time as between the chamber and committees, everything could be accommodated within the present time schedule.

If a change is to be made, then for the reasons I and others have mentioned we should have at least a week in order to adjust our schedules to enable us to be here to do our work.

Senator Langlois: Honourable senators, since I have been involved in these communications I would like to refer to the remarks of Senator Grosart regarding the so-called lack of communication between the two leaders.

Yesterday morning I attended a meeting in the office of the Leader of the Government, which meeting was attended by the Leader of the Opposition and the co-ordinator of our committees, Senator Bourget. This new schedule was discussed at that time, as was stated this afternoon, and it was agreed that this would be referred to the respective caucuses, opposition and government, in this house. Therefore, yesterday afternoon, as the Leader of the Government has pointed out, a decision was made in our caucus. We were informed of the decision—

Senator Flynn: The decision?

Senator Langlois: —yesterday afternoon.

Senator Flynn: The decision?

[Senator Manning.]

Senator Langlois: Yes, the decision was discussed in our caucus.

Senator Flynn: The decision?

Senator Langlois: The decision was left to the caucuses, regarding the agreement we discussed yesterday morning.

Late yesterday afternoon, if I recall correctly, I met the Leader of the Opposition and I informed him of the decision of our caucus with respect to Monday evening. It was then—

Senator Flynn: No.

Senator Langlois: You say no, but I have a definite recollection of that.

Senator Flynn: I did not see you yesterday afternoon after the caucus.

Senator Langlois: Yes, quite late yesterday—around suppertime. I do not recall the time exactly. I will come back to that.

It was at that time that the honourable Leader of the Opposition told me that he had another suggestion to make, which was to sit on Tuesday morning instead of—

Senator Flynn: You are entirely wrong, I am sorry to say.

Senator Langlois: You spoke to me about that yesterday, did you not?

Senator Flynn: If I am permitted I will say that when I came into the house yesterday afternoon at 2 o'clock, I spoke to the Leader of the Government and told him that in principle we were in agreement, that we should sit either Monday night or Tuesday morning. That is what I told the Leader of the Government.

I was never told by anyone what the consensus of the Liberal caucus had been. I hope I am using a more proper term than "decision of the Liberal caucus." That is the point. I assure Senator Langlois that he is mistaken when he says he told me last night that it would be Monday.

In any event, the only thing that I said to the Leader of the Government was that we were in agreement in principle, but I never said at any time, and I was never told at any time, that it would be next Monday that this would start.

Senator Langlois: That is exactly what I wanted to say.

Senator Flynn: If that is what you wanted to say, say it.

Senator Langlois: Perhaps I did not state the facts quite accurately when I said that you had spoken to me. You were speaking to the Leader of the Government and I was standing by. I heard the conversation at the time.

Senator Flynn: It was at 2 o'clock.

Senator Langlois: And later on, at 6 o'clock last night, I told the Deputy Leader of the Opposition what decision had been made by our caucus.

Senator Flynn: You didn't tell me.

Senator Langlois: If, therefore, there was a lack of communication, it was between the two of you.

Senator Grosart: On that matter, that is surely a question of privilege and it is very difficult for me to speak it.

What in fact happened is that I did say I had the information last night.

Senator Langlois: You got it from me.

Senator Grosart: I got the information last night in the meeting of a subcommittee of a committee of this house, where it was casually said in answer to a question from a member of the committee. I need hardly say that I assumed I was not being told that officially. I need hardly say that I did not assume I was being told it before my leader was told.

Senator Langlois: I hope the honourable senator is not denying that last night at a meeting of the subcommittee of the Internal Economy Committee he put the question to me directly, "What is the program for next week?" I said the decision in our caucus was to sit on Monday evening. If you did not inform your leader, well, I do not think we should take the blame for it.

● (1440)

Senator Grosart: Surely that is not fair.

Senator Flynn: That is unfair.

Senator Grosart: Again on a question of privilege, am I to understand that any time I am given information about the intentions of the Leader of the Government in this house I am to assume my leader has not been told, and that I then have an obligation to tell him? Surely, using any kind of common sense, honourable senators, my assumption would be that my leader had been told. I cannot see that any other assumption would be proper in respect to the position I hold here. In all common sense, if it was the intention that I should communicate that to the leader, that would have been said.

Senator Flynn: Certainly.

Senator Perrault: Honourable senators, perhaps there was a misunderstanding at the meeting which was held yesterday morning in my office. The agreement was, as I will repeat, that the proposal for Monday night sittings—

Senator Flynn: Not this Monday.

Senator Perrault: —and the rescheduling of committee activities to avoid as many clashes as possible, would be discussed with the Opposition caucus, and if there were any difficulties at all they would be communicated to the Leader of the Government. There were no adverse reports received, apart from an additional proposal that an eleven o'clock sitting of the Senate for Tuesday morning be considered, and that was duly discussed in our caucus.

Senator Grosart: I am not objecting to that, but perhaps to clarify the situation in the future the Leader of the Government will say to me that if at any time I am given information as to the procedure in the Senate I am to assume that that information has not been given to the Leader of the Opposition. If he will tell me that, I will be able to guide myself, and this kind of situation will not happen again.

Senator Perrault: I think that is a logical assumption in view of the important position which you hold in the Official Opposition. I may say additionally that if there were any serious objections on the part of the Official Opposition to the proposal to sit this Monday night, the information only reached me about an hour ago. The Leader of the Opposition did not contact me.

Senator Flynn: I contacted Senator Langlois.

Senator Perrault: He did not telephone me.

Senator Langlois: He called me.

Senator Flynn: I contacted Senator Langlois. Didn't he tell you?

Senator Langlois: Yes, I did.

Senator Perrault: Let me say that he duly and efficiently passed the information along to me.

Senator Flynn: Which information?

Senator Langlois: We are still on speaking terms here.

Senator Flynn: So are we.

Senator Perrault: The information that somehow there was a reluctance on the part of the Official Opposition to meet this Monday night.

Senator Flynn: Yes.

Senator Perrault: Then I suggest to you, honourable senator, that the information was rather late in being communicated to us.

Senator Flynn: But I was informed only at noon, when I telephoned. I took the initiative of telephoning Senator Langlois.

Senator Langlois: I don't deny that.

Senator Flynn: I know. I am not arguing with you at this time.

Senator Langlois: And I told the leader immediately.

Senator Flynn: And I told you that I thought you should give us prior notice before starting with this new schedule, and you told me that you would convey that information.

Senator Perrault: He did.

Senator Flynn: Now the Leader of the Government says it is too late. Well, I knew at 12 o'clock, and exactly at that time I made my objection. I am saying that that is the only problem. I am suggesting that we should have been given prior notice. I am suggesting that under the circumstances the Leader of the Government should show more flexibility. We are not asking for a basic change in the program. We are simply saying that we are not prepared for next Monday. I cannot dispense with half the membership of my group here as you can with yours. Some consideration should be given to that situation. I appeal for flexibility, and I ask all honourable senators on the government side to show some consideration. If you want cooperation from us, then you should give us consideration occasionally.

For the last time I ask the government leader to change the date to Tuesday of next week, and then from the following week on we can follow the new schedule.

Senator Buckwold: Honourable senators, as a government backbencher I would ask our leader and deputy leader to consider what has been said. I do not think it is according to any great eternal plan that we have to meet this Monday. I am all in favour of meeting on Mondays, if that is what it has to be, but it does result in inconvenience to honourable senators—for instance, to my friend Senator

Manning from Edmonton. It is difficult for many of us to obtain reservations and be here on Mondays, although it is not impossible. I suggest to the honourable leader that in this particular case the appeal of the Opposition is one which might be heeded.

Senator Bourget: Honourable senators, I should like to say just one word, because I attended the meeting yesterday. As we all know, the Senate is called the house of second thought, and I would ask my leader to agree to the suggestion made by Senator Buckwold, that in the circumstances we meet next Tuesday. We have to work with the chairmen of all committees, and we would like their cooperation. It is not often that I ask a favour of my leader, but I think it would be reasonable if he were to agree with the Leader of the Opposition on this occasion.

Senator Perrault: Honourable senators, there have been some persuasive statements made this afternoon.

Some Hon. Senators: Hear, hear.

Senator Perrault: And I have been moved by the eloquence of some of the remarks.

Senator Bourget: I am speaking of next week only, of course.

Senator Perrault: If the government accedes to this request, out of the generosity which moves the spirit of the party which holds the majority in this chamber, I hope that it is clearly understood—

Senator Flynn: There is no doubt.

Senator Perrault: —that on Thursday afternoon next we shall not hear a lecture from the Deputy Leader of the Opposition, complaining once again about the clash in committee meeting times and the difficulties facing this chamber.

The situation here has become intolerable. I will certainly accede to the request of Senator Bourget and others for this coming week, but we can no longer tolerate a situation in which some honourable senators really regard this as a day-and-a-half's operation per week—

Senator Flynn: No, no.

Senator Perrault: —and where they are not prepared to put in the hours and the time which is expected from any one who serves in this chamber.

Senator Flynn: Don't look at us.

Senator Grosart: Be careful which way you are looking.

Senator Perrault: Well, honourable senators, you are not looking at the Leader of the Government, I can assure you.

Senator Smith (Colchester): There are many over there that we can't look at.

Senator Langlois: There must be some who are cross-eyed on the other side.

Senator Perrault: In view of the opinions expressed here, and because of the information I have received about travel reservations and so on, we shall accede to this request. Perhaps the Deputy Leader of the Opposition will wish to withdraw his motion, and perhaps later this day we can advise on a date.

Senator Langlois: Amend the motion.

[Senator Buckwold.]

Senator Perrault: Yes, amend the motion by making the appropriate changes.

Senator Flynn: We can amend it to state "March 16".

Senator Perrault: I hope that the postponement of this program to a week from Monday will not still prove onerous for certain honourable senators.

Senator Flynn: No.

Senator Perrault: As you know, there has been a long history of resistance in the Senate to meeting on Monday evenings. Honourable senators are aware of that fact.

Senator Flynn: We are in agreement.

Senator Perrault: If we are expected to do the kind of work which needs to be done, then we have to put the hours in.

Senator Flynn: Agreed.

Senator Perrault: I suggest that a common courtesy to the Leader of the Government is for the Leader of the Opposition to communicate promptly his concerns about matters relating to the hours of sitting of this house, and not wait 24 hours before that concern is communicated, which was in fact the situation on this occasion.

Senator Grosart: Don't spoil it.

Senator Flynn: I thought it would be so easy for the Leader of the Government to accede to the request without making an ungracious speech and without trying to further find fault. I have made my position clear. I telephoned Senator Langlois at 12 o'clock today. He told me about the plan. I told him of my objection. He told me that he would tell you. When you say that I delayed 24 hours, well, I told you about the consensus of my caucus at two o'clock yesterday.

Senator Perrault: Twenty-four hours.

Senator Flynn: I do not see how I could have done more than I did. I do not see how the Leader of the Government can justify his accusing me of waiting to inform him of things that I did not learn about until noon today.

● (1450)

Senator Lamontagne: Honourable senators, before consideration is given to the redrafting of the motion respecting the adjournment—

Senator Langlois: The motion has been modified.

Senator Lamontagne: —I hope that the Deputy Leader and the Leader of the Government will consider the possibility of the Senate's not sitting next Wednesday afternoon, but perhaps sitting Wednesday evening. This would allow us to reschedule, at least, the committee meetings which have already been planned for Tuesday.

Senator Langlois: Honourable senators, I have been deeply touched by the plea made by Senator Bourget and Senator Buckwold, and by the generosity of my leader, who has agreed to modify the decision which had been taken for next week. In this mood, I humbly beg the Senate to allow me to modify my motion. Therefore, with leave of the Senate and pursuant to rule 23, I would ask that the motion be modified by striking out "Monday next, 15th" and substituting therefor "Tuesday next, 16th".

Senator Lafond: Honourable senators, I agree with Senator Longlois' request. I think it is legitimate in the circumstances. It seems to me, however, that this should be done without prejudice to the meetings of committees that are to be held on Tuesday morning and Tuesday afternoon according to the existing schedule, which should not be amended.

Senator Everett: Honourable senators, before the motion is put I should like to correct the statement made by the Deputy Government Leader in respect of the work of the committees for next week. The Standing Senate Committee on National Finance will not be considering supplementary estimates (B), but will be considering, rather, the draft report on its study on Canada Manpower, which is 215 pages long and contains 61 resolutions. The committee will be meeting Wednesday morning, Wednesday afternoon and Thursday morning.

Senator Lamontagne: Honourable senators, as far as I am concerned the meeting of the Special Senate Committee on Science Policy which was scheduled for next Tuesday morning will not take place at that time.

Senator Flynn: Why not?

Senator Lamontagne: I hope it will take place on Wednesday afternoon, and that in the meantime—

Senator Langlois: When the Senate is sitting?

Senator Lamontagne: No, when the Senate adjourns. In the meantime, I hope the members of the committee will have an opportunity to consider the brief which has been presented to us by the Department of Industry, Trade and Commerce.

Senator Godfrey: Honourable senators, why should the fact that we are not sitting on Monday night have any effect whatever on the sittings of committees on Tuesday morning?

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

Hon. Senators: Agreed.

Motion, as modified, agreed to.

INCOME TAX CONVENTIONS BILL

THIRD READING

Senator Everett, for Senator Lang, moved the third reading of Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel.

Motion agreed to and bill read third time, and passed.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. George Isaac Smith: Honourable senators, a great deal of what I had planned to say in respect of this bill, and the things which have happened under it or because of it, have already been dealt with by those who have already spoken, in particular, Senator Cook, Senator Hayden and Senator van Roggen.

I do not think it will be necessary for me to repeat the considerations which they put so well before the house and with which I agree. If I do not do that, I would not like anyone to think that I lack any warmth in supporting the main points which they made about the difficulties which have arisen on account of, and which are inherent in, this bill, or about the actions which have taken place in relation to it, some of which seem to me to have been rather premature because the bill is still a long way from royal assent. The truth of the matter is that I support, as warmly as I can, the remarks made about those difficulties, and it is very hard for me to refrain from forming the belief that much of this bill and the performances under it amount simply to a charade.

I believe, too, that the way the whole matter has been handled indicates a firm determination to place the passing fancy of a minister above the rule of law and above Parliament. I believe it demonstrates that there are those on whose part the desire to follow democratic principles is sometimes lost in their desire to have their own way and in their firm belief that they, and only they, know what is best for Canadians.

Before I go on to deal briefly with *Time* and *Reader's Digest,* which are very much affected by this bill, let me speak of another monthly publication that seems to have got caught in the net which was spread to catch the two publications I have named. I refer to a monthly publication called *MD of Canada.* This is a publication which is circulated for the use, or the entertainment—whatever the proper word is—of doctors in this country. I believe it goes free of charge to some 30,000 medical people in Canada, which I think would be by far the great majority of them, and probably almost all of them, both English-speaking and French-speaking.

This is a magazine which has, of course, a relationship with a magazine in the United States. There is no desire to make light of that. It is, however, published in Canada. Its list of officers reads like a roll of distinguished persons in the medical and related fields in Canada. It has a number of employees, although not a large number, in Canada.

Senator McIlraith: It is also edited in Canada.

Senator Smith (Colchester): Yes, it is edited in Canada by an outstanding Canadian, William G. Gibson. Its general manager, its Ontario sales manager and its editorial board, as listed in the publication, are all Canadians.

● (1500)

Senator McIlraith: What about its content?

Senator Smith (Colchester): That brings me to my next point which deals with the content. I am told it has been able to meet the so-called Cullen rule, and the publication has been informed that what they now have come to do is within that rule. They have one difficulty, however. Although they are willing and ready to sell a 75 per cent interest in their Canadian endeavour, so far they have not been able to find a buyer. So, honourable senators, if that particular situation continues to exist, they will find themselves out of business as a result of this legislation com-

bined with the orders which have been made by ministers relating to ownership.

This publication, as I have already said, is sent free to more than 30,000 physicians in Canada. It is, of course, supported by advertising, and that advertising, as one can easily tell by looking through the publication, is related specifically to medical matters and things which would be of interest to doctors and not of great interest to anyone else except, perhaps, to those in related occupations. It seems to me, having read one issue—not carefully or in detail, but enough to grasp what seems to be in it—that it certainly comes within the following words contained in the Report of the Royal Commission on Publications of 1961:

> —Cultural publications, and literary and scholarly journals, are part of our national heritage, reflecting something else than our concern with the marketplace, keeping alive among us the deeper, sweeter and more spiritual things of life.

It seems to me that this publication really does come within that type of description, and ought somehow to be permitted to carry on its very useful work.

I am further informed—although I cannot vouch for this and I put it before you only as hearsay, but as hearsay given to me as being capable of proof—that its demise or its depature from the Canadian market would be of no substantial significance, perhaps of no significance at all, to other publications of any kind in Canada, because the advertising that it carries is also carried in other publications aimed at the same audience. It would simply mean a reduction in the expense of the advertisers because they would not be able to advertise in *MD of Canada,* and they would continue to advertise in the other publications they use.

I submit that there ought to be some way to deal with this magazine so as to permit it to continue publication, especially since it has complied, can comply and, I understand, will continue to comply with the Canadian content rule, and is ready and willing to sell a 75 per cent share whenever it can find a buyer.

I should like now, honourable senators, to turn for a moment to broadcasting, and here I think I cannot do much better than simply support the comments made by Senator Hayden and Senator van Roggen. It seems to me that this bill does not take note of the real situation in either Toronto or Vancouver. I believe that Senator Hayden is perfectly correct when he says that the major stations in Toronto are sold out of prime time for a considerable time in advance, and that the others do not have an audience to make them attractive to advertisers in substantial measure. From the advertisers' point of view, as they, of course, pointed out, there is not much point in buying time on a broadcasting station that cannot bring their advertising to the people to whom they wish to sell their goods.

As to the Bellingham station, the bill seems to me, in the light of what Senator van Roggen said, to make even less sense than it does with reference to Toronto—if, indeed, it makes any sense at all. Although the transmitting facilities of the Bellingham station are in the United States, all its Canadian marketing, selling and much of its production work is done through a Canadian corporation which it established in Vancouver. That Canadian corporation has a Canadian sales, executive and production staff. The advertisements that are sold to Canadian advertisers are broadcast by that station, but the money which Canadian advertisers pay, I am told, is taxable, and the tax is paid in Canada.

I understand also that over the past 8 or 9 years in various ways this Canadian corporation—assisted, I suppose, by the American aspect of it—has put into the economy of western Canada, and therefore the economy of Canada as a whole, something like a total of $75 million. It has established a production facility called Canawest which has developed, I am told—and I believe this—into the largest organization of its kind in western Canada, employing Canadians and generally carrying out all its operations in Canada, although, of course, some of its productions are undoubtedly used by the parent station, and some are used in Canada by Canadian stations.

In my view, the broadcasting aspect of this bill and the things done under it—particularly insofar as it relates to Vancouver—really require a great deal of scrutiny. It seems to me that here it has resulted in even more injustice than has been the case with other aspects of it.

Let me turn briefly to *Time* and *Readers' Digest.* As I understand the history of the events relating to these publications, *Time* Canada said in the beginning that it would comply with the government's requirements, or with the minister's requirements, as to editing, control, licensing and ownership. However, it did raise strong objection to the 80 per cent Canadian content rule. It did so—and to me this is a perfectly reasonable position to take—because it is a news magazine which draws on world news sources for its coverage. You cannot find 80 per cent of all the news in the world in Canada, no matter what the federal government says.

● (1510)

Reader's Digest did not seem to be nearly so cooperative at first but, lo and behold, after a long time—and it is not very long ago now—we suddenly find the minister whose edict as to Canadian content has proven so difficult for *Time,* impossible for *Time,* announcing that it is either not applicable to *Readers' Digest,* or is applicable in such a way that it allows *Readers' Digest* to continue in operation. The minister, as I read what he says, claims that the changes he made in this respect were not made particularly to help *Readers' Digest,* but to help digests generally. Of course, the only digest with which there was great concern was the *Readers' Digest.* It is very difficult to believe that these changes that were made, either in the rule itself or in its application, were not specifically designed to allow *Readers' Digest* to stay in Canada. I do not particularly object to that. In fact, I suppose I would find it very difficult to object to the fact that *Readers' Digest* can stay in Canada. It is the way in which it was done that I find objectionable.

Here again, it seems to me, is one of the most glaring examples in our history of rule by ministerial whim. It is rule by ministerial whim with a vengence. As other senators have said, it is certainly not the rule of law. One cannot help but wonder why the ministerial whim chose to favour *Reader's Digest,* and to treat *Time* differently. Clearly, for some reason, the minister was determined to get rid

of *Time* in its Canadian edition, come what may. I must say that this belief is certainly heightened by a remark made some time ago by the minister concerned, that if the legislation and the rules made under it were not acceptable to the courts he would soon see that some other bill to bring about his objective becomes law. This is one of the most extraordinary statements I have heard in a long while.

Senator Hayden pointed out on Tuesday evening that an eminent authority in this field, Senator Grattan O'Leary, said to the Special Senate Committee on Mass Media, "I am not so sure that *Time* magazine today is not the best Canadian magazine we have." Note that he did not say merely "the best magazine distributed in Canada;" rather he said "the best Canadian magazine." I must say that I agree with him. Its Canadian section, though consisting of only a few pages each week, gave the best Canadian perspective available in Canada, or anywhere else for that matter. However, the minister, for reasons which are not entirely clear unless they are simply that he wishes to get *Time* out of Canada, would take it away from Canadians and leave them with something greatly inferior. Although his reasons for doing this may satisfy him, they do not seem to satisfy very many Canadians.

I have on other occasions protested that matters which go to the substance of existing rights ought to be contained in the statute law—the statute law as passed by Parliament—and ought not to be contained in regulations made by the Governor in Council. Today, we are dealing with something even worse, something which certainly goes to the substance of the matter but which is dealt with by ministerial decree, if it may be dignified by that formal name. Surely, the description I have used several times this afternoon, "ministerial whim," is far more applicable when one studies what has been done.

It seems to me, honourable senators that this is an intolerable method in a democratic society, and I protest against it as strongly as I know how. In my opinion, it is unacceptable to have a minister of the Crown deprive me of what I wish to see and read, and do the same to Canadians everywhere. I suggest that what has been done in this case has been done without regard to the wishes of Canadians as a whole, without regard even to the wishes of the great majority of advertisers who have been using the media we have been discussing and wish to continue to use them as the most effective method of selling their products.

There is another aspect of the matter, which in the long run may be the most serious of all—our relations with the United States. It will be remembered that a few years ago, when the Honourable Mitchell Sharp was the Minister of Finance, the United States found it necessary to adopt certain financial measures in relation to other countries, which clearly would have had a most serious adverse effect on Canada. It will be remembered also that the then Government of Canada sent Mr. Sharp to Washington to try to persuade the United States to exempt Canada from these harmful measures, an exemption not granted to any other country. It was a matter of the greatest importance to Canada that Mr. Sharp should succeed in his mission and, to his great credit and Canada's great advantage, he did succeed. We must remind ourselves that if our relations with the United States had not been good, it is very likely that Mr. Sharp's request would not even have been entertained, much less granted. There have been other occasions, many of them when Canada needed and obtained special treatment from that great country, and there will be many more such occasions unless the world changes.

We all know that the United States is our largest trading partner and, if we look at things seriously, we also know that the United States is our chief bulwark against destruction by violent attack. It is of the utmost necessity that good relations between our two nations be preserved, and we should all keep that firmly in mind for the good of Canada.

There can be little doubt that many people in the United States now regard what is being done in connection with this matter, and the general controversy with respect to television and cablevision, as highly provocative. Honourable senators, I think it is reasonable to ask ourselves if we must do things this way. I do not advocate and will not willingly accept any Canadian attitude of subservience to the United States, or to any other country. I want to see a proud Canada, with our own political and social institutions, our own culture and our own views. I know that this, if we are to attain it and keep it, will often require us to firmly insist on doing things that the United States and other countries may not like, but surely there is no need to do these things provocatively or by confrontation. They should be done with patience, with fair play, by discussion and negotiation, with a continuing regard for the sensitivity of others and the importance of avoiding any unnecessary strain upon our good relations. They should be done, also, with a warm regard for the needs and wishes of Canadians everywhere. I believe that this whole problem and related matters have not been dealt with in accordance with such considerations.

For these and other reasons I find that I cannot support this bill and what is proposed done under it. I am prepared, however, to see it referred to committee in order to determine whether some kind of improvement can be worked out which can be supported by those who hold views similar to mine.

● (1520)

Senator Lafond: If no other senator wishes to speak at this time, I should like to move, on behalf of Senator Laird, that the debate be adjourned until the next sitting of the Senate.

On motion of Senator Lafond, for Senator Laird, debate adjourned.

STATUTE LAW (VETERANS AND RETURNED SOLDIERS' INSURANCE) AMENDMENT BILL, 1976

SECOND READING—DEBATE ADJOURNED

Hon. Chesley W. Carter moved the second reading of Bill C-86, to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act.

He said: Honourable senators, veterans insurance legislation is a very important part of the Veterans Charter. Its original purpose was to provide coverage for veterans who, by reason of wounds or other disability, were not eligible or medically qualified to receive insurance coverage from

commercial companies. However, once the legislation was passed, it was not restricted to this group of veterans, but was made available to veterans generally.

The first veterans legislation of this nature was the Returned Soldiers' Insurance Act which was passed around 1920, following the First World War. It provided a maximum coverage of $5,000 for a policyholder, and 48,000 policies were issued under that legislation with a total coverage value of $109 million. Of those 48,000 policies, 18,000 terminated in death claims, and 18,000 to 20,000 were surrendered for their cash value. Another 9,000 to 10,000 were terminated for other reasons. There are still in force 2,500 policies, with a total value of $5.5 million.

Following World War II, in August 1944, Parliament passed the Veterans' Insurance Act. Incidentally, both of those acts are still in force. I should point out that the termination date for new applications was October 31, 1968.

The maximum coverage per individual policyholder under the Veterans' Insurance Act was $10,000. A total of 56,000 policies, or contracts, were issued, with a total coverage value of $185 million. Of those 56,000 policies, 9,000 terminated in death claims, roughly 23,500 claims were made for the cash surrender value, 4,300 claims were terminated for other reasons, leaving a total of approximately 19,000 policies still in force, with a coverage value of $60 million.

Bill C-86 contains two separate but similar amendments to each of those two insurance acts. The first amendment has to do with options. It provides options not now available under present legislation to both the insured and, after the policyholder's death, the beneficiary.

The present act stipulates that only $2,000 of the death benefit can be paid in a lump sum. The remainder must be paid as annuities. The only exception to this rule is when the total claim is less than $3,000 for each beneficiary. But even this exception can be made only with the minister's consent.

The amendment in Bill C-86 will enable policyholders to elect to have the full amount of their coverage paid either as a lump sum or as an annuity. On the other hand, when the claim becomes payable after the policyholder's death, the amendment gives the beneficiary the option of receiving the proceeds either as a lump sum or as an annuity.

Clause 2 of Bill C-86 amends the Veterans Insurance Act in this respect, and the corresponding amendment to the Returned Soldiers' Insurance Act is clause 5.

The second amendment has to do with spouses. As honourable senators know, in recent years and months we have passed in this chamber amendments to the Old Age Security Act, the Public Service Superannuation Act, the Canada Pension Plan, the Pension Act and the War Veterans Allowance Act. All of those amendments were designed to recognize common-law spouses. The purpose of this amendment is to update the veterans insurance acts and bring both in line with the legislation I have mentioned, and with other parts of the Veterans Charter.

Bill C-86 provides that a common-law spouse may be designated as a beneficiary and can be paid the proceeds of a policy if the couple have resided together and have represented themselves as man and wife for a specified period of time. In cases where no barriers to marriage exist, the period specified in the bill is one year. In cases where the policyholder was prohibited from marrying the common-law spouse by the existence of a previous marriage or some other legal obstacle, the time period specified in the bill is three years.

This amendment enables the expressed wishes of the policyholder to be carried out, which is not possible under present legislation. It also removes some injustices. Cases have been known where a man and woman have lived together for a period of 30 years, yet, on the death of the policyholder, the survivor has been barred by the legislation from receiving the death benefits.

Spouses have also undergone, in many cases, considerable personal sacrifice to ensure their protection in the future, only to find, after the policyholder's death, that they are not eligible to receive the proceeds. Clause 4 of Bill C-86 amends the Veterans Insurance Act in this respect, and the corresponding amendment to the Returned Soldiers' Insurance Act is to be found in clause 6.

● (1530)

Clause 7 of the bill merely ensures the validity of payments under contracts already in force under the two acts I have mentioned.

Honourable senators, this is not a controversial bill. It received quick passage in the other place. It is my hope that it will receive similar treatment in this chamber. Personally, I doubt whether it is necessary to send it to committee, but if that is the wish of honourable senators, I shall be glad to move the appropriate motion.

Bill C-86 constitutes certain improvements in the legislation affecting a small but very important segment of Canadian society, and I heartily commend it to honourable senators.

On motion of Senator Macdonald, debate adjourned.

CRIMINAL LAW AMENDMENT BILL, 1975

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act, which was presented yesterday.

Senator Langlois, for Senator Goldenberg, moved the adoption of the report.

He said: Honourable senators, by way of explanation, the 12 amendments made in committee deal, for the most part, with clarification of the wording of both the English and French texts. The only substantive amendment is the striking out of lines 1 and 2 on page 22 of the bill, and substituting therefor the following:

is guilty of

(e) an indictable offence and is liable to imprisonment for ten years; or

(f) an offence punishable on summary conviction.

This amendment is in relation to clause 27 of the bill, which deals with the theft, forgery, and so forth, of credit cards. I do not think the amendment itself needs to be explained at great length. It was accepted by the Depart-

ment of Justice and passed by the committee. The remainder of the amendments have to do only with modifications to both the English and French texts.

Senator Flynn: Honourable senators, there are a few comments I should like to make in connection with this report.

As Senator Langlois has said, most of the amendments are for purposes of clarification. Overall, the committee did an excellent job in examining this bill, which is a very important one. It did not, however, correct all of the objectionable areas of the bill, the main one being the obvious tendency demonstrated by the Department of Justice to enact amendments on the basis of isolated cases or problems submitted by either attorneys general or crown prosecutors. It is as though all of the grievances were gathered in a basket and amendments made in relation thereto.

One of the clauses of Bill C-71 provides that a judge may infer from the evidence of a police officer that there was a disturbance under section 171 of the code. That amendment is based on a Vancouver case where, quite obviously, there was a problem in adducing evidence which resulted in an acquittal. It seems silly to me for Parliament to tell a judge he can infer from the evidence of a police officer that there was a disturbance. If a judge is not aware that he can infer from the evidence that there was a disturbance, he should not be on the bench. Extending that logic, such a provision could then be added to every section of the Criminal Code. In my view, the amendment will not cure the problem that arose in the Vancouver case. That was simply a case of the wrong charge being laid.

The main problem with that amendment is that it singles out the evidence given by a police officer vis-à-vis the evidence given by any other witness, with the implicit suggestion that the evidence of a police officer is more important than that of any other witness. For that reason, we tried to have the relevant clause deleted, but without success.

Another rather silly amendment, in my view, is the clause which singles out the theft of cattle as an offence. It seems that cattle raisers wanted theft of cattle to be singled out as an offence for psychological reasons, thereby warning people that it was a very serious offence to steal cattle. Well, why not create new sections of the Criminal Code for each and every item that is the object of theft? As I say, it is a rather silly amendment. As was established in the committee, it neither increases the fine or the possible jail term. I, along with others, objected to this use of the Criminal Code, but, again, without success.

The last item I want to mention is the amendment which would take away from an appeal court the right to substitute a verdict of guilty in a case where the facts were admitted and there had been an error in law. I expressed my views on this in the committee, and will do so again on third reading of this bill.

In this case, again, the decision to amend the Criminal Code was based on the reaction to only one case, and I object to that procedure. I do not think we should throw out sections of the Criminal Code on the basis of the reaction to only one case. There are other questions involved in this which were not considered at all. Only one viewpoint was considered by the department. They did not consider the other expressions of opinion, which would have tended not only to retain that section, that right of the court of appeal, but have us reinforce the law by never permitting a jury to invade the field of law. The jury is the judge of the facts, but under no circumstances and under no pretext should we allow the jury to enter upon the field of law as opposed to fact and say, "We refuse to apply the law because we do not like the law." This is a big problem and I think it is a wrong direction that has been taken by the department.

● (1540)

In any event, I will have the occasion to discuss this matter further on third reading. I did want to give you my perspective, however, of the work done by the committee which, on the whole, was pretty good. In these circumstances, however, I think the committee should have at least done away with useless amendments and considered more seriously the very important point I have just mentioned.

Senator Langlois: Honourable senators, I am to some extent—

Senator Flynn: You are not bound to reply.

Senator Langlois: —in agreement with what the honourable senator has just said. However, I would like to add, in connection with the first amendment that he mentioned—the amendment to clause 28—that it was brought about by the recommendation of the crown prosecutor of Vancouver, if I remember correctly.

This suggested amendment was also considered by the Criminal Law Section of the Conference of Commissioners on Uniformity of Legislation at their meeting of August 1974. They recommended that section 310 of the Criminal Code be so amended.

The honourable Leader of the Opposition also referred to this other amendment having to do with theft of cattle. This amendment was discussed in May 1973 at a meeting of the attorneys general. There was no consensus on a solution. One province suggested that the offence should carry a minimum penalty. Other provinces suggested that the Criminal Code should be amended to make cattle theft a separate indictable offence, punishable by a maximum term of imprisonment of ten years. It was on the basis of this suggestion that the amendment was proposed.

Turning to the last comment of my friend, regarding the so-called Morgentaler amendment, this amendment was discussed in this house quite extensively. I stated then, and I repeat this afternoon, that I am in sympathy with the position taken by the honourable senator, and I added that I hoped the committee would be giving full consideration to this amendment. Such consideration was given. We spent considerable time on it.

Senator Flynn: I agree.

Senator Langlois: We had a full discussion on it. Unfortunately, the suggestion of my honourable friend was not accepted. When he says this is based on one case, he is right. However, we should not lose sight of the fact also that this one case went to the Court of Appeal of Quebec, and the Supreme Court of Canada. When I introduced this bill, I underlined to honourable senators the many qualifi-

cations and reservations contained in the majority decision and the dissenting decision of the Chief Justice. These qualifications and reservations, as I then stated, are sufficient in my mind to justify amending the Criminal Code in the way we have.

I added that if any change was going to be brought about in the application of our jury system in Canada, it is up to this Parliament, and not the courts, to do so. This amendment was brought about in proper form, and it is a proper decision for Parliament to take. I do not think anyone would challenge that. If it had not been a decision of the highest tribunal of the land, I do not think we would have been justified in so doing.

For example, in the case of the Vancouver decision, dealing with disturbances, we were not informed as to whether that decision went to appeal. However, the *Morgentaler* case went to the highest court in the land. Due to the reservations which were contained in the decisions of their lordships, I think there is sufficient ground for the action which has been taken. This is my point of view.

As I previously stated, the honourable senator cannot complain. He has had his day in court, both in this chamber and in committee. I sympathize with him in that he did not get his point across, but his point was well taken. It was worth the time we spent on it.

Senator Flynn: I agree with that. I am not complaining.

Senator Langlois: I am not either.

Motion agreed to and report adopted.

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

Senator Langlois moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

The Senate adjourned until Tuesday, March 16, at 8 p.m.

APPENDIX

(*See p. 1874*)

VISIT OF MEXICAN PARLIAMENTARY DELEGATION TO CANADA

FEBRUARY 3 TO 11, 1976

JOINT COMMUNIQUÉ

Between February 3 and 11, a delegation from the Congress of Mexico, designated by the Chamber of Senators and the Chamber of Deputies, visited Canada at the invitation of the Speaker of the Senate, the Hon. Renaude Lapointe, and the Speaker of the House of Commons, the Hon. James Jerome.

This was the second official meeting between representatives of the two Parliaments, the first meeting having been held in Mexico City in January 1975. The two delegations agreed that it would be desirable to arrange that these meetings should be held in future at regular intervals.

The two delegations held discussions in Ottawa on topics of mutual interest—trade questions, air transport negotiations, industrial and regional development, foreign investment policies in the two countries, the Law of the Sea negotiations and the prospects for international acceptance of the 200-mile economic zone, energy policies in the two countries, the desirability of exchanging information in the field of energy conservation and development, and the New Economic Order and the Charter of Economic Rights and Duties of States. The two delegations were agreed that these exchanges contributed to improved mutual understanding.

The Mexican delegation described the hope that Mexico would achieve a balance in merchandise trade with Canada, which at present is favourable to Canada. They further indicated a desire to see more of this trade being conducted directly between Canada and Mexico. The Canadian delegation, while understanding these concerns, showed special interest in an overall expansion of trade in both directions. They noted that account should be taken of recent investments by Canadian companies in joint enterprises in Mexico, a development likely to stimulate economic activity between the two countries. They also drew attention to the growing numbers of Canadian tourists visiting Mexico, where the balance is in favour of Mexico.

Mexican delegates explained the importance which Mexico attached to establishing its claim to a 200-mile economic zone ("patrimonial sea"). An amendment to the Mexican Constitution establishing Mexico's patrimonial sea had already completed passage through the Congress and through the Mexican state legislatures. The amendment remained only to be promulgated in the Official Gazette, and it would take effect 120 days following promulgation. Canadian delegates expressed understanding of the Mexican objectives, but indicated a preference for a multilateral agreement at the Law of the Sea Conference.

In the course of discussion of the New Economic Order, the Mexican delegation elaborated on the Charter of Economic Rights and Duties of States, which had been approved by the General Assembly of the United Nations. The two delegations agreed on the importance of this initiative and on the need to make progress in the development of the New Economic Order.

Mexican representatives expressed satisfaction at the recent visit of Prime Minister Trudeau to Mexico, welcoming this manifestation of Canadian interest in expanding relations between Canada and Mexico.

The two delegations were graciously received by the Governor General and Mrs. Leger. In addition, the delegation was received at luncheons offered by the Speakers of the Senate and the House of Commons.

The Mexican delegation took advantage of their visit to Ottawa to meet senior officials of government departments and to inform themselves on Canadian programmes in the fields of health and social policy, agriculture and industrial development incentives.

Prior to coming to Ottawa, the Mexican delegation visited Toronto, Quebec City and Montreal. In Toronto they were received by the Honourable Thomas Wells, Minister of Education of Ontario, and by the Honourable Russell Rowe, Speaker of the Ontario Legislature, and held discussions with officers of the Addiction Research Foundation. During their visit to Quebec City, the delegation was received by the President of the National Assembly, the Honourable Jean-Noel Lavoie, and discussed the educational system in the Province of Quebec with the Deputy Minister of the Ministry of Education. The visit to Montreal included a tour of the site for the 1976 Olympics.

On behalf of the Mexican Congress, Senator Enrique Olivares-Santana, President of the Standing Committee, extended an invitation to the Parliament of Canada to send a delegation to visit Mexico in 1977.

The Mexican delegation was lead by Senator Enrique Olivares-Santana and Mr. Guillermo Jimenez-Morales, and included the following Senators and Deputies:

SENATE:

Hon. Victor Manzanilla-Schaffer
Hon. Enrique Gonzalez-Pedrero
Hon. Louis M. Farias
Hon. Nicanor Serrane del Castillo
Hon. Ramon Angel Amante-Echeverria

CHAMBER OF DEPUTIES:

Miss Margarita Garcia-Flores
Mr. Gilberto Ortiz-Medina
Mr. Octavio Ferrer-Guzman
Mr. Joaquin Canovas-Puchades
Mr. Ezequiel Rodriguez-Arcos
Mr. Geime Esteva-Silva

The Canadian delegation was headed by Senator Renaude Lapointe, Speaker of the Senate, and Mr. H. T. Herbert, M.P., and included the following Senators and Members of Parliament:

SENATE:

Hon. Jacques Flynn, P.C. (Co-Chairman)

Hon. Martial Asselin, P.C.
Hon. Maurice Lamontagne, P.C.
Hon. Joan Neiman

HOUSE OF COMMONS:

Mr. T. C. Douglas, M.P.
Mr. Jack Ellis, M.P.
Mr. Bill Jarvis, M.P.
Mr. Robert Kaplan, M.P.
Mr. Charles Lapointe, M.P.
Mr. James McGrath, M.P.
Dr. Frank Philbrook, M.P.
Mr. Douglas Roche, M.P.

For the Mexican delegation

Senator Enrique Olivares-Santana
Guillermo Jimenez-Morales

For the Canadian delegation

Senator Renaude Lapointe
H. T. Herbert, M.P.

THE SENATE

Tuesday, March 16, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

SPORTS

CONGRATULATIONS TO NEWFOUNDLAND ON WINNING THE CANADIAN MEN'S CURLING CHAMPIONSHIP

Senator Carter: Honourable senators, before we start today's proceedings, I wish to bring to the attention of this honourable house an event of national importance that took place in Regina last week.

Senator Bourget: It does not happen too often.

Senator Carter: It was the occasion of the annual Macdonald Brier, emblematic of the Canadian Men's Curling Championship. I am proud to report that for the first time in the history of this event, a rink from Newfoundland proved to be the best in all of Canada.

Skipped by Jack MacDuff—

Senator Flynn: Chico!

Senator Carter: —the St. John's rink ended up with a 9-2 record in the week-long bonspiel against rinks from each of the other provinces and the Northwest Territories. It is truly a national sports event.

In addition to Jack MacDuff, who was named the all-star skip, the other members of the victorious Newfoundland rink were Toby MacDonald, third; Doug Hudson, second; and Ken Templeton, lead. By winning the Brier the Newfoundland rink earned the right to represent Canada at the world championship which starts next week in Duluth, Minnesota.

I am sure that all honourable senators join with me in congratulating these young Newfoundlanders and wishing them the best of success in their endeavour to bring the world curling title back to Canada.

Hon. Senators: Hear, hear.

Senator Perrault: Honourable senators, I join in congratulating the Newfoundland curling rink. As a British Columbian may I just report that the British Columbia women's basketball team won the Canadian Ladies' Basketball Championship last week, which makes me think that British Columbia and Newfoundland are the two bookends holding this country together.

Senator Flynn: Honourable senators, I too join Senator Carter in the sentiments he has expressed. I watched the final match on TV on Saturday afternoon, not because I like curling but because my wife likes it and plays it.

Senator Perrault: You had no choice.

Senator Flynn: She has the greatest admiration for Mr. MacDuff and his rink, who have proved that Newfoundland, after 27 years in Confederation, has come of age.

Senator Bonnell: Honourable senators, I too should like to congratulate the victorious MacDuff rink from Newfoundland. He is not the same "Macduff" I learned about in my early years, but he is probably a descendant.

I should also like to congratulate the winning ladies' basketball team from British Columbia. Though Newfoundland and British Columbia may be the two bookends that hold this country together, somewhere in between is a little part where the whole thing began—Prince Edward Island. And let me say here that two weeks ago in Ottawa, a rink from Prince Edward Island won the Canadian Senior Men's Curling Championship for the second straight year, and for the third time in the last ten years. I refer to Dr. Wen MacDonald and his rink from Charlottetown.

Senator Buckwold: As a representative of the host province, the site of the curling championships, I want to tell you how delighted we were that Newfoundland was able to win the coveted prize. To indicate what good hosts we were, I should tell you that Saskatchewan won only three games, which was probably the worst record we have ever had. That, I am sure, was due only to the fact that we wanted all the visitors to enjoy themselves. To my honourable friend Senator Bonnell, let me point out that the only rink that had a poorer record was the one from Prince Edward Island.

● (2010)

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of a contract between the Government of Canada and the Municipality of Boissevain, Manitoba, for the use or employment of the Royal Canadian Mounted Police, pursuant to section 20(3) of the Royal Canadian Mounted Police Act, Chapter R-9, R.S.C., 1970. (English text).

Report of the Bureau of Intellectual Property, Department of Consumer and Corporate Affairs, for the fiscal year ended March 31, 1975, including the report, pursuant to section 27 of the Patent Act, Chapter P-4, R.S.C., 1970, of proceedings under the Act for the fiscal year ended March 31, 1975.

Copies of Order in Council P.C. 1976-387, dated February 26, 1976, amending Part II of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

Report of exemptions authorized by the Minister of Transport under section 134 of the Canada Shipping Act in cases where no master or officer was available with required certificate and experience, for the year ended December 31, 1975, pursuant to section 134(2) of the said Act, Chapter S-9, R.S.C., 1970.

Report of operations under the Farm Improvement Loans Act for the year ended December 31, 1974, pursuant to section 13 of the said Act, Chapter F-3, R.S.C., 1970.

Report of operations under the Fisheries Improvement Loans Act for the fiscal year ended March 31, 1975, pursuant to section 12(2) of the said Act, Chapter F-22, R.S.C., 1970.

Report on the administration of the Small Businesses Loans Act for the year ended December 31, 1974, pursuant to section 11 of the said Act, Chapter S-10, R.S.C., 1970.

Copies of a Memorandum of Agreement made March 10, 1976, between the Government of Canada and the Government of the Province of Quebec relating to the Anti-Inflation Program, together with copies of a Communiqué thereon issued by the Department of Finance.

ADMINISTRATION OF JUSTICE

RESIGNATION OF MINISTER OF CONSUMER AND CORPORATE AFFAIRS—QUESTION

Senator Flynn: Honourable senators, I ask the honourable the Leader of the Government if he would explain why the Prime Minister accepted the resignation from the Cabinet of the Minister of Consumer and Corporate Affairs today, after having refused to accept that of the Minister of Public Works last week?

Senator Perrault: Honourable senators, without wishing to engage tonight in a controversy about this very important parliamentary matter it should, perhaps, be pointed out that this question is primarily of significance and importance in the other place, because ministers answerable there have been under questioning about this matter. However, may I take the opportunity to review briefly some of the events which have taken place by way of replying to Senator Flynn's question?

Senator Flynn: I have no objection. I am willing to give leave to the Leader of the Government.

Senator Langlois: He does not need leave. He is replying to your question.

Senator Flynn: Would the honourable the deputy leader wait a second?

Senator Langlois: You should be resuming your seat.

Senator Flynn: There is a rule that a question should be short, and the answer should be short also.

Senator Langlois: It all depends on the question.

Senator Flynn: If the Leader of the Government wishes to review the whole situation in answer to my question, and if as a necessary consequence there should be some kind of debate, I would have no objection to that.

Senator Langlois: It is his privilege.

Senator Flynn: But it will be the privilege of the Senate to follow him.

Senator Langlois: Raise a point of order.

Senator Flynn: That is what I did.

[Senator Perrault.]

Senator Perrault: Honourable senators, I shall not dispute the argument made that this matter is of significance to both Houses of Parliament and to the institution of Parliament. This afternoon in the other place the Minister of Consumer and Corporate Affairs, the Honourable André Ouellet, announced his resignation, which had been tendered and accepted earlier by the Prime Minister. In his explanation the minister pointed out that he felt that, in view of the fact that he had an appeal before the court, it was necessary for him to divest himself of his ministerial responsibilities so that he could pursue his appeal in an atmosphere removed as far as possible from the atmosphere of political disputation which has existed in this country for the past few weeks.

The Prime Minister this afternoon in the other place—some honourable senators were present for his speech, which was an excellent one, in my view, but all parties contributed to that dialogue in a very able manner—stated, in essence, that he had accepted the arguments advanced by the Minister of Consumer and Corporate Affairs and, consequently, his resignation.

The Minister of Consumer and Corporate Affairs also made the point that he had in fact discussed his problem, the contempt of court citation, with members of Cabinet, including the Minister of Public Works. It was apparent that we felt that his conversation with the Minister of Public Works had led to that minister's making the admitted error of discussing the matter with Mr. Justice Hugessen of the Quebec Superior Court. There are those in our parliamentary system who today have continued to demand the resignation of the Honourable C. M. Drury, Minister of Public Works. Questions are being asked as to why one resignation was accepted and the other not accepted. The Prime Minister also dealt with that question this afternoon. However, those honourable members who have had an opportunity to work with Mr. Drury over the years, I am certain, regard him as one of the outstanding public servants in this country, without any question at all.

Some Hon. Senators: Hear, hear.

Senator Flynn: That is not disputed.

Senator Perrault: His record of service to the people of Canada in peace and war must be brought into the judgment of the Prime Minister with respect to whether this minister should be required to resign or stays on for future service. We do know that during his entire career Mr. Drury distinguished himself with United Nations activities. He was a brigadier general in the armed forces and was awarded the DSO. He has served with distinction in business, national defence and the Department of External Affairs. In the incident in question he made a mistake; there is no question about it. The Chief Justice of the Quebec Superior Court described as a grave matter the fact that the Honourable C. M. Drury approached Mr. Justice Hugessen and asked whether it would be possible for Mr. Ouellet to make a formal apology and thereby bring the proceedings to an end. Yet, despite the resignation today of the Honourable André Ouellet, a number of political critics in our system are threatening to delay the business of the people in Parliament unless Mr. Drury submits once again a resignation and this time the resignation is accepted by the Prime Minister. A great many stones are being cast

against Mr. Drury, who has admitted his error in judgment. You know, Reverend Stanley Knowles who is leading the offensive in the other place should, perhaps, be reminded of the biblical passage:

> He that is without sin among you, let him first cast a stone—

Such considerations, too, are relevant when judging those in public life, or, indeed, in business or in the professions. This is what the Deschênes report tells us about Mr. Drury's conduct, as related by Mr. Justice Hugessen:

> I had the impression that he was attempting, if possible, to head off a confrontation between the executive and judicial branches of government. In any event, rightly or wrongly, I did not take any action with regard to the call and dismissed it from my mind. To the extent that one can determine one's own mental processes, I am quite convinced that the call did not influence my decision one way or the other.

Mr. Justice Deschênes appends the comment:

> In fact, as you know, Mr. Justice Hugessen upheld the request for a citation for contempt of court by judgment dated January 23, 1976, which judgment is now under appeal.

We have had three cases of alleged impropriety. We know that we have the word of members of the judiciary who were contacted by Messrs. Chrétien, Lalonde—when he was not a minister—and Drury. There is no mystery left. The Deschênes report, requested by the government, outlines exactly what they recall saying and exactly what the judges in question recall that they said—improprieties, yes, but illegalities, no—and these are the cases which are supposed to represent an attempt by the government and the Prime Minister to hold the country and the parliamentary system in contempt.

● (2020)

I know that fair-minded senators would find it very difficult to see in these three cases any basis for a parliamentary or constitutional crisis. From the facts which have been made known—and they are all on the record; nothing has been concealed from the people—the action of the ministers, according to the law officers of the crown, does not give rise to criminal or contempt accusations. Admittedly, in greater or lesser degree, all three ministers exercised imperfect judgment. In the case of the Honourable C. M. Drury, the Prime Minister, in effect, has stated—and I would like to reiterate it for the house—the view that balanced against his long years of service to the people of Canada in many diverse roles and functions is this error of judgment.

It is in the Prime Minister's hands whether or not resignations shall be accepted. That is standard parliamentary practice. That was the practice of the government in which the Leader of the Opposition served. It is the prerogative of the Prime Minister, and ultimately he must answer to the people of Canada.

Justice tempered with mercy has always been a facet of our parliamentary life and the rule of law under which our system has existed for these many centuries. I find it difficult in my own mind to understand the view that the Minister of Public Works should be required to resign solely because he intervened, improperly and unfortunately, on behalf of a junior Cabinet colleague who came to him for advice. But this is a matter of judgment where we all have our own attitudes. I know the official Opposition has its own views on the matter, which I respect. The demand is now continuing for a public inquiry, but that is another question and I do not want to comment on that further, because that is rather far afield from the question posed by the Leader of the Opposition.

To sum up, Mr. Drury obviously was approached by the former Minister of Consumer and Corporate Affairs for advice and counsel as a senior and respected minister. He went to the minister and said, "Look, I am in this difficult situation. I was under great strain after the court decision came down about the alleged sugar combine and I made some imprudent remarks. I need your advice." It was just as any younger member of Parliament or minister would go for advice to senior ministers in any administration or any government, or just as a younger senator would seek advice and guidance from older senators.

The senior minister in this case made a mistake by intervening in the wrong way. On Friday he submitted his resignation and the Prime Minister tempered justice with mercy, pointing out the humiliation suffered by the minister, the great embarrassment caused to him during perhaps the sunset years of his public career after years of service. The Prime Minister felt that this was punishment enough.

Certain honourable senators may say that the Prime Minister's action was not tough enough. Some may want "more blood" as well as "the body" along with abject humiliation. But that is not the feeling of the government, and it is not the feeling of the Prime Minister of Canada.

Senator Flynn: Honourable senators, I want to say at the outset that the Leader of the Government has once again indulged in his practice of replying to a question with a speech. It makes it very difficult for those of us on the Opposition side to try to be governed by the rules when he makes a speech where two sentences could have explained that it was the judgment of the Prime Minister, in view of the circumstances, to accept the one and not the other. At this time I will refrain from replying to the lengthy speech made by the Leader of the Government in defence of the government. I suggest to the Leader of the Government that this is not the way to deal with the type of question I asked. The only thing that can be accomplished by a speech such as the one he just made in reply to my question is the provocation of a debate.

I will go no further this evening, but I do reserve my right to speak further on this at a future date.

Senator Manning: Honourable senators, I do not rise to discuss the merits or the circumstances of this particular case. I am wondering whether the Leader of the Government can tell us whether there are previous cases on record in Canadian parliamentary history where a minister of the Crown, who resigned for an admitted impropriety, had his resignation refused by the Prime Minister.

I know there have been cases of ministers resigning for other reasons who have had their resignations refused, but are there any previous cases of a minister's resignation being refused when that resignation was the result of an acknowledged impropriety on the part of the minister?

Senator Perrault: So that I understand the question, you are asking whether there are other instances of where a Cabinet minister resigned on the basis of an impropriety, or an alleged impropriety, and had his resignation refused?

Senator Manning: Yes.

Senator Perrault: I must take the question as notice. I simply do not have all the historical facts at hand. I will undertake to determine whether there have been other such instances.

Senator Everett: Honourable senators, may I ask the government leader a question? If the resignation of the Honourable Mr. Drury was not accepted by the Prime Minister because of Mr. Drury's long and distinguished service to the people of Canada, would the government leader be able to tell us why the resignation of the Honourable Mr. Ouellet was accepted?

Senator Perrault: I attempted to answer that question earlier. Mr. Ouellet, in his statement today, cited personal reasons for his resignation, the primary one being that he has an appeal presently before the courts. He felt it was impossible for him to function effectively as Minister of Consumer and Corporate Affairs while this very critical and crucial case was before the courts.

As Minister of Consumer and Corporate Affairs, he was in a very highly visible political position and, for that reason, he felt he should tender his resignation pending the outcome of the court proceedings.

He did admit as well, as I indicated earlier, that he had in fact discussed his contempt of court problem with the Honourable C. M. Drury. Although there was no suggestion that he had asked Mr. Drury to approach Mr. Justice Hugessen, I understand that he felt he bore responsibility for Mr. Drury's present difficulty and, under the circumstances, should resign, and the Prime Minister accepted his resignation.

Senator Smith (Colchester): Honourable senators, I wonder if I might ask the government leader if he is really saying that it is less serious for the minister who committed the wrong to have committed it than for the minister whose conduct caused him to commit it?

Senator Perrault: That is not the purport of my remarks at all.

Senator Smith (Colchester): I am asking you if it is.

Senator Perrault: That is not the purport of my remarks at all. The Prime Minister, as the Queen's first minister in Canada, simply made the decision that the punishment Mr. Drury had experienced was sufficient for the impropriety which he had committed. He did not commit an illegal act. There has been no allegation of that kind.

Senator Flynn: You cannot say that.

Senator Perrault: It was not an illegal act.

Senator Flynn: You cannot say that.

Senator Perrault: It could not be subject to any kind of court proceeding.

Senator Flynn: How do you know that?

Senator Perrault: It was not an illegal act, and your leader in the other place, the man you applauded at your convention just three weeks ago, has made no charge of illegality.

Senator Flynn: That does not mean that it was not illegal.

Senator Smith (Colchester): As a supplementary, may I ask the Leader of the Government whether he believes it is necessary for a minister to be guilty of criminal or contempt accusations before his resignation may be required or justified?

Senator Perrault: Not at all and not necessarily. Every case must be regarded on its merits. There is no question about that.

● (2030)

I recall the days when, for example, a party of another persuasion formed the Government of Canada, and we all recall with vivid memories the cases involving ministers that arose at that time, and how difficult it was subsequently to have those matters brought to public light. In this case the Prime Minister, within hours of the accusations appearing in the *Globe and Mail,* acted to have Chief Justice Deschênes of the Quebec Superior Court move to undertake a complete investigation. On the basis of the investigation, when it was found out that there had been no illegality—

Senator Flynn: No.

Senator Perrault: Perhaps an error in judgment, an impropriety.

Senator Flynn: Oh no.

Senator Perrault: —and after Mr. Drury's apology to the courts and his apology to the House of Commons, and the considerable difficulty and inconvenience that he has experienced over recent weeks, in the view of the Prime Minister the penalties were sufficient for any wrongdoing or bad judgment of which he may have been guilty. It is just that simple.

Senator Flynn: I object to the interpretation the Leader of the Government places on Chief Justice Deschênes' report.

Senator Langlois: Let Chief Justice Deschênes object to it; not you. You are not the author of the report.

Senator Flynn: I will not try to put on it the meaning that the Leader of the Government has.

Senator Langlois: You would like to put your own meaning on it. I understand that.

Senator Flynn: I am saying that Chief Justice Deschênes was not called upon to say whether ministers contravened the Criminal Code or otherwise. He just commented on the problem of the judges. As I mentioned to the Leader of the Government last week, we did not need that report because we had the admissions of the ministers concerned about their behaviour, and action could have been taken without any report from the Chief Justice. That is the point.

Senator Perrault: Honourable senators, there was an earnest determination on the part of the government to make certain that any action taken would be based upon fact and not on rumour or wild accusations.

Senator Flynn: Admissions.

Senator Perrault: Not calumny and not vilification.

Senator Flynn: Admissions.

Senator Perrault: This was the intention of the government. I do not think any honourable senator here would question the capacity of the Chief Justice of the Superior Court.

Senator Flynn: I am not.

Senator Smith (Colchester): Nobody is questioning it.

Senator Flynn: Try to stick to the question.

Senator Perrault: The facts he made available to the government were in turn made available to the people of Canada when that report was tabled in the House of Commons. There was no question of illegality whatsoever. Let me suggest that if honourable members of the Opposition believe that there were illegalities, one course open for them is to make formal charges on the floor of the House of Commons—

Senator Smith (Colchester): Boloney!

Senator Perrault: —against certain honourable members, and bear the full implications of this action. But that has not been done yet. Under certain circumstances, if an allegation of some substance is made by one member against another member of the other place, as honourable senators are aware, and a subsequent House inquiry finds that the member accused is innocent, then the accusing member has an obligation to resign his seat in Parliament. Significantly, no action of that kind has been taken in the other place.

Senator Langlois: For lack of courage.

Senator Flynn: I have not said anything of that kind.

Senator Smith (Colchester): The Leader of the Government, having fiddled around with such great liberty with the rules, will find less to object to if a little more fiddling is done with the rules of this house. Nobody has made the slightest suggestion that there was any element of criminality in respect of Mr. Drury, that he is a straw man erected by the Leader of the Government in order to distract attention. One of the things he said tonight, which obviously was said elsewhere, is that what Mr. Drury said was alleged to have been done in the hope of avoiding a confrontation between the Executive and the Judiciary. I ask the Leader of the Government: What is the basis for any possible belief that a confrontation was developing between the Executive and the Judiciary?

Senator Langlois: Chief Justice Deschênes report says that.

Senator Croll: Deschênes said that.

Senator Smith (Colchester): The government just said that.

Senator Perrault: I was reading from the Deschênes Report.

Senator Smith (Colchester): I am asking if he is advancing that as a reason which has some relevance to resignations and non-resignations? Has he any facts which would indicate that there was any likelihood of a confrontation between the Executive and the Judiciary?

Senator Perrault: Apparently, according to Mr. Justice Hugessen's statement, this was Mr. Drury's fear as one of the senior ministers and senior public servants of Canada. He held that fear and that concern. Apparently, he wanted to be helpful in the matter of making certain that the case was disposed of as fairly as possible in a manner which would avoid confrontation.

Senator Smith (Colchester): That is exactly what terrifies us. If a senior member of the government said that I did what Mr. Drury did in order to help avoid a confrontation between the Executive and the Judiciary, the people of this country, and certainly this Parliament, would be entitled to know what facts there were to support such a belief.

Senator Perrault: I have made my statement. If the honourable senator wishes to have a debate, he knows how to proceed.

Senator Smith (Colchester): And how to do it too.

Senator Flynn: More and more you are beginning to look like your predecessor.

Senator Buckwold: That is a compliment.

Senator Flynn: Maybe for him it is.

QUARANTINE ACT

BILL TO AMEND—THIRD READING

Senator McGrand moved third reading of Bill S-31, to amend the Quarantine Act.

Motion agreed to and bill read third time and passed.

TEMPORARY IMMIGRATION SECURITY BILL

THIRD READING

Senator Langlois moved third reading of Bill C-85, respecting immigration security.

Motion agreed to and bill read third time and passed.

CRIMINAL LAW AMENDMENT BILL, 1975

MOTION FOR THIRD READING—DEBATE ADJOURNED

Senator Langlois moved third reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

MOTION IN AMENDMENT

Hon. George I. Smith: Honourable senators, there are some comments I should like to make about this bill, if I may have your patience and indulgence for a short time. I would draw your attention at this moment to clause 9 of the bill which reads as follows:

Section 171 of the said Act—

That is, of the Criminal Code.

—is amended by adding thereto the following subsection:

(2) In the absence of other evidence, or by way of corroboration of other evidence, a summary conviction court may infer from the evidence of a peace officer relating to the conduct of a person or persons, whether ascertained or not, that a disturbance described in paragraph (1)(a) or (d) was caused or occurred.

In a moment I propose to move that this clause be deleted. However, there are some remarks I should like to make about it before doing that.

I should like especially to draw your attention to the fact that this amendment purports to give the right to a court or a judge in a summary conviction case to infer from the evidence of a peace officer relating to the conduct of a person or persons, whether ascertained or not, that a disturbance has occurred. I submit to you with considerable vigour that that is merely a repetition of what the law is. There is no reason why the evidence of a peace officer should bear any more weight in a court than the evidence of any other credible witness. Any judge hearing the evidence of the police officer may draw from it whatever inferences it merits, and there can be no need, nor, indeed, justification, for inserting in the Criminal Code of Canada—a most solemn document affecting Canadians everywhere—a useless provision of this sort.

● (2040)

Perhaps in considering whether this sort of thing should be countenanced or not, it is desirable to consider for a minute or two the reasons upon which it is said that this amendment is advanced as a proper one for Parliament to accept. I believe it is proper for me at this stage to refer to what has taken place in committee.

Senator Grosart: It is.

Senator Smith (Colchester): If it is not proper, no doubt some honourable senator will draw my attention to the fact that I am wrong to do so.

Senator Grosart: It is proper.

Senator Smith (Colchester): When inquiry was made in the committee as to why this apparently useless—and I believe not only apparently but completely useless—provision was to be inserted in this solemn document, the Criminal Code, it was said that the Crown prosecutor—I think the term used was the city prosecutor—in the city of Vancouver had reported that he found it difficult to get convictions against people who were charged with creating a disturbance. In support of this allegation, which incidentally was made three years ago, and only now is bearing fruit—pretty empty fruit, too, I think—by way of justification, a case in the Supreme Court of British Columbia was produced. That case is entitled *In the Matter of Irene Eyre and a Stated Case pursuant to Section 762 of the Criminal Code of Canada, and In the Matter of Her Majesty the Queen vs. Irene Eyre.*

In this case a trial was held before a magistrate, and the accused was convicted. At the request of counsel for the accused, a case was stated for the consideration of a judge of the Supreme Court of British Columbia. As I am sure all honourable senators know, a stated case is simply a case in which the magistrate who has made his decision one way or the other is requested to report to a higher court the facts which he found in the case, and the way in which he applied the law to the facts, and then the superior court is asked whether or not the magistrate made a mistake.

The charge upon which the appellant, who was a young woman, was found guilty was that in the city of Vancouver on a certain date she did unlawfully cause a disturbance in a public place by shouting and using obscene language. I have not used all of the words of the charge, but that is the gist of it. The judge on appeal said:

> The real issue is as to whether or not it was established that a disturbance was caused. It is inherent in the conviction of the accused that the learned Provincial Court Judge did determine that a disturbance had been caused; otherwise there could have been no conviction.

Then the judge on appeal goes on to state the various facts which were stated by the convicting magistrate for the consideration of the higher court. I shall not attempt to read all of them, but I will try not to omit anything which is of real importance to the question under consideration.

The first three paragraphs in the stated case dealing with the facts said that on the 23rd day of June, 1972—and I said three years ago; it is four years ago, obviously—on the 23rd day of June, 1972, members of the Vancouver City Police Force attended at a certain place, and the attention of two of the officers was drawn to the accused. In front of the premises—apparently a private dwelling house, although I am not sure about that—the police found a large party of young people assembled on the front lawn, being about 50 in number, and they also found several other police officers. The facts stated that a certain corporal saw the accused lady with approximately five other people and asked her to leave the area, saying that if she did not she would be charged. He said this approximately three times, but the accused, accompanying her refusal with some very obscene language, refused to go. There was no evidence that anybody but the policeman heard the language. The attention of the particular corporal was drawn away from the accused person while he witnessed the arrest of another accused person by other police officers. The next he saw of the accused was when she was being assisted into the police wagon.

I come now to one of the fundamental paragraphs of the stated case, and I should like to read it precisely:

> (*g*) that Corporal Reynolds found that her words were shouted loudly and that there were eight (8) citizens standing on the north west corner of Fraser and 59th Street, people were looking out of their windows and on a house immediately to the south of the place in question there was a woman standing on her front porch and in the 7400 Block of Fraser Street there were people standing on their balconies.

With respect to paragraph (*g*), which I have just read, and the other paragraphs to which I referred, which purported to state the facts, the learned judge on appeal states:

> On those facts all that has been established is that the appellant said to Corporal Reynolds the words indicated above.

In other words, the obscene words. And as for paragraph (*g*) specifically, the appeal court judge states:

> —the statement there is most unhappily worded because it was not for Corporal Reynolds to find that her words were shouted loudly. If he swore that her words were shouted loudly and that there were eight citizens standing on the northwest corner of Fraser and 59th Street, it was for the learned Provincial Court Judge to determine if indeed those facts were established and that a disturbance was thus created.

But the appeal court judge says:

> All that was established is that the appellant spoke abusive words to Corporal Reynolds.

There is a good deal more to the case than that, but that is the gist of it. It was up to the Crown to prove by evidence of policemen or otherwise that there was a disturbance caused by the accused person. All that the trial magistrate could say was that Corporal Reynolds found that her words were shouted loudly and that there were eight citizens standing on the corner, and so on. The appeal court judge quite properly draws attention to the fact that the magistrate did not find that the officer swore that this was the case, or that there was evidence before the magistrate on which he could find that that was the case.

In the copy of the decision which I have, these are the words used by the judge:

> There was no finding that the appellant was a member of the party or that she contributed to a disturbance created by the party.

Honourable senators, there are a number of other cases referred to in that case, but please do not be afraid that I will weary you by reading all of them. However, there are one or two references I should like to make, because these other cases referred to in this particular case were adduced in argument in support of the necessity for such an amendment as we have in this bill. One of those cases is an Alberta case which took place before a district court judge named Beaumont. The case was *Regina vs. Youngren*. It was a short decision, and I will read most of it:

● (2050)

> I am of opinion that no disturbance was created by the appellant who spoke rudely and harshly to the police officer. Admittedly, some police officers have very tender feelings, but I cannot agree that to hurt those tender feelings *ipso facto* creates a disturbance *contra* the Criminal Code . . .

I think that really goes to the heart of the matter in that first case. What happened was that words were spoken which were offensive. Undoubtedly they were offensive. I would hate to have them spoken to me; but the fact that the court did not find that those words constituted a disturbance in the light of the manner in which they were spoken or in the circumstances in which they were spoken, I submit, is not a reason why the Criminal Code should be amended so as to make it easier for persons in those circumstances to be convicted. What is even worse, I suggest, is that this amendment does not do it anyway, as I said when I began.

Here is another case. This is the case of *Regina vs. Goddard*. It is one of those referred to in support of this alleged need for amendment. It is a case in Ontario. Here again there was an appeal from a conviction for creating a disturbance. The appeal was allowed and the conviction quashed. I am looking at the moment at the headnote. I will not weary you with the rest of the case, because I think the headnote states the nub of the whole matter. The headnote says, in part:

> The disturbance must be a public disturbance and all ingredients of the offence refer to activities in public. An emotional disturbance as a result of someone else's disorderly conduct is not sufficient.

I should like to refer to still another case which has been mentioned and which is really an illustration of how the eminent lawyers who adorn the bench in Saskatchewan can make a serious question amusing and interesting and still come to the proper conclusion. This is the case of *Poole vs. Tomlinson*. The question here again is one of creating a disturbance in a public place by shouting, under a local bylaw. The headnote says that before a person can be found guilty of creating a disturbance by shouting in a public place, facts other than the shouting must be proved from which the court can conclude that there was a disturbance.

The learned judge deals with the facts this way:

> On October 31, 1956, some 50 young citizens of Prince Albert gathered on the street in front of the police station there and shouted "We want Morgan." This choral effort evidently irritated some unappreciative functionary within that institution—or disturbed his rest—for the appellant was forthwith arrested and hustled within. In due course he was charged "that he did create a disturbance in a public place within the city of Prince Albert, Saskatchewan, by shouting, contrary to the bylaws of the city of Prince Albert, Saskatchewan." Whether the appellant was selected from out the throng because of the unmusical qualities of his voice or because he did not retire with sufficient alacrity does not appear. Neither does it appear who the mysterious Morgan was or whether he was being hailed as a Caesar or sought as a tyrant.
>
> In due course the case came on for hearing before the learned magistrate. No evidence whatsoever was offered, the prosecution and defence having agreed on the following facts:
>
> "(1) That at the time of the alleged offence at least fifty (50) or more persons were collected on the street in front of the police station in Prince Albert, Sask.
>
> "(2) The accused, together with fifty (50) or more others, was yelling: 'We want Morgan.'
>
> "(3) That the accused was then arrested."

That was the evidence before the court, or rather that was what the court had to consider. There was in fact no evidence. The judge on appeal said:

> With quaint Hibernian logic, counsel for the respondent [The Crown] seriously and strenuously urged that in all such cases as the present someone must have been disturbed otherwise the accused would not have been charged.

Please note that. This was seriously put forward as an argument. It was urged that the accused must have been guilty or he would not have been charged.

The judge goes on:

Unfortunately, it is not that simple. What of the voice crying in the wilderness or the supplications of the righteous shouting "Hallelujah?" The question of whether or not a disturbance resulted from the act of an accused does not depend on its impact on any particular person. He might be a crank. What is music to one may be a nightmare to another. It must first be established that what was said or done could reasonably cause a disturbance in the circumstances and, further, that it did. That is a matter for the court to decide. It is not proper to assume the result from the bare act itself. There must be some evidence from which the court could reach a conclusion of fact or draw the necessary inference that a disturbance had resulted. The gist of the offence is the disturbance.

From the scant facts before the learned magistrate the accused and his fellow choristers may have been airing their cultural needs and if that be the case it would seem a shame to stifle their melody. For as Oliver Wendell Holmes was moved to lament:

"Few can touch the magic strings

And noisy fame is glad to win them,

Alas for those who never sing

But die with all that music in them."

On the facts agreed upon and submitted, these questions must be answered in the negative.

Those are the kinds of cases which the Crown did not win, and which are advanced as proof of the necessity for this amendment. I submit, honourable senators, that there is not the slightest justification in these cases for amending the Criminal Code. All these cases do is say that the Crown must prove its case by proper evidence.

The Criminal Code is a serious matter. It governs the public conduct, and the private conduct too, for that matter, in many respects, of persons as between themselves, as against the public, and as related to the Sovereign's peace. The Criminal Code surely is not to be trifled with, and Parliament is not to be asked to lend its authority and devote its time to remedying this kind of improper, unnecessary and trifling sort of amendment.

While I readily agree that this can do no harm, because it does not change the law and does not give the court any more powers than it now has, it is time that Parliament said to the people who are charged with administering the laws of our land, and in particular the criminal laws of our land, that they are expected to do their work if they are to get convictions, and that the courts are duty bound to ensure that the evidence produced before them by the prosecution is sufficient to warrant a conviction.

There is one matter that I omitted and which I should place before the Senate now.

In the committee it was said that after objection was first raised to this amendment, telegrams were sent to all the attorneys general of Canada asking whether they were in favour of the amendment. To nobody's surprise, I am sure, telegrams came back saying that it was a good amendment. Nobody, however, asked any association of defence lawyers; nobody asked the Canadian Bar Association or indeed, any bar association in Canada, whether they thought it was a good amendment. They might very well have got a different answer if that had been done.

It was also said, and I must disclose this fact as well, that the commission on uniformity of legislation in Canada, a body which meets two or three times a year, had considered this request from the city prosecutor of Vancouver and had concurred in it. The request was brought up at either a meeting of a subcommittee or before the whole commission on the uniformity of legislation, and when the attorneys general were asked if they thought it was a good thing they said yes. I ask you to remember, however, that nobody asked anyone who was concerned with the other side of the coin.

● (2100)

Nobody has been able to explain to us, or perhaps I had better put it that nobody has been able to explain to my satisfaction, what improvement this makes in the law or why the Criminal Code should be cluttered up with useless changes or, indeed, why the time of this Parliament should be taken up with such meritless propositions.

Consequently, honourable senators, if it is in order, I move that this bill be not now read the third time but that clause 9 be deleted and the subsequent clauses renumbered accordingly.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, that this bill as amended be now read the third time.

In amendment, it is moved by the Honourable Senator Smith (Colchester), seconded by the Honourable Senator Haig, that the bill be not now read the third time as amended but that it be further amended as follows:

Delete clause 9 and renumber the following clauses accordingly.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Léopold Langlois: Honourable senators, I do not wish to take the time of the house but I would like to endeavour to give an explanation of this amendment. As you will no doubt have noted, Senator Smith, when introducing his amendment, said that we are not changing the law. But he still takes very strong opposition to the bill, notwithstanding the fact that we are not changing the law. And all the amendment says is that "a judge may infer . . ." There is really no obligation on the judge to change the present position when it comes to weighing any evidence adduced before him. But he "may infer"—and that is all the amendment says. This is based on the fact—and this point has been made before us in committee—that in the past judges have refused to consider the evidence given by police officers alone, with no corroboration from members of the public outside the police force, and in this connection we have had reference by the honourable senator to the case in Vancouver and to other cases.

When this amendment was suggested, and it is true that it was suggested by the prosecutor for the city of Vancouver, the attorneys general of Canada were consulted and they were all in agreement that this amendment should be brought about. In addition, the Conference of Commissioners on Uniformity of Law were also consulted and they also agreed that such an amendment should be made. So

we are faced with this situation today: we have the recommendations of the law enforcement officers of the land, namely, the attorneys general of Canada, and the Conference of Commissioners on Uniformity of Law in Canada who have all recommended that the change should be made. Yet the honourable senator says after that, "Why are we doing that?" Yet there is nothing at all new in the amendment; we are not changing the law and we are not changing the present situation in which judges are placed when they have to weigh the evidence adduced before them. So, why the hue and cry about this amendment if we are not changing anything? Then the honourable senator says that we are adding something cumbersome, that we are adding something to our Criminal Code which means nothing. If we are adding nothing—and that is possibly an opinion which I am ready to accept—if we are making no change, then why this hue and cry about it?

There is no obligation on a judge to act differently from the way he has been acting in the past. Judges will still have to weigh the evidence as it is presented to them.

We were also told in committee that police officers had very great difficulty in getting people, not those participating in the disturbance but principally those who were complaining about it, to come forward and make themselves known and testify against those brought before the court on this charge. It is for this reason that the attorney general and others have come to the conclusion that it is about time we reminded the courts that they should infer or take into consideration in weighing the evidence the fact that there is evidence put forward by the law-enforcement agencies of this land. I see nothing wrong in doing this. We are not in any way—and I know I am repeating this—obliging the judge to take this into consideration but we simply say that he may infer from such evidence that a disturbance was caused by so and so.

Again, I think we should accept the recommendations made to the Department of Justice by the attorneys general of Canada and the Conference of Commissioners on Uniformity of Law in Canada, and I think this is sufficient ground and reason for supporting this amendment.

Senator Flynn: Are you speaking now of the amendment proposed by Senator Smith?

Senator Langlois: The amendment proposed in the legislation.

Senator Flynn: I thought you were supporting the amendment proposed by Senator Smith.

Senator Langlois: You are very slow tonight, my friend.

Senator Flynn: I am quicker than usual.

Hon. John Morrow Godfrey: Honourable senators, I was a member of the committee considering this question and I got into an argument with Senator Smith during the hearings on this particular section. I used the same arguments used this evening by Senator Langlois. At that time I disagreed with Senator Smith 100 per cent.

The matter was brought up again the following day, and at that point the officials from the Department of Justice produced the first case to which Senator Smith referred tonight, and to say that I was astounded is to put it mildly, because that case did not support the statements made to the committee by the officials from the Department of Justice upon which I had made the arguments similar to those made by Senator Langlois. I remember leaving the committee room that day and saying to Senator Smith, and admitting it, that I was more gullible than he because I had been prepared to accept these statements from the officials. Then, when they produced the case, that case just did not back up what they had said. I can only presume that the attorneys general and the commissioners were also as gullible as I was before I examined the case relied upon by the officials. I can also only presume that the attorneys general and the commissioners did not actually examine that case. I could not be at the committee meeting where the decision on this section was made because I had to attend another committee meeting, but I must say I was absolutely astounded to find out that the section had not been struck out. As far as I am concerned I support the position of Senator Smith.

Hon. Eugene A. Forsey: Honourable senators, if a non-lawyer may be permitted to intervene in this technical discussion, I must say that I was rather horrified to hear the view of this matter put forward by Senator Smith (Colchester). I was not horrified by what he said, but horrified by the facts that he related to us. I was particularly horrified by that quotation from the Saskatchewan case in which the argument was made by counsel that the accused must have been guilty or he would not have been charged. That reminded me of a story told me many years ago by R. L. Calder, the former Crown prosecutor in Montreal, who said it was the habit of the late Judge Sicotte, when an accused was brought before him and pleaded not guilty, to look down at him over his glasses, shake his head and say: "If you were not guilty you would not be here." I think this is the same sort of attitude. What worries me about this is that, however little it may in fact change the strict law, it seems to me that the insertion of this provision in the bill is a sort of guideline or hint to the judge. It does not advise him to take this view, but it does strongly suggest to him, to my mind, that he should place a very strong emphasis upon the evidence of the police officer in question. This seems to me, if we are considering the interests of the accused, which I think we ought to, like something that would lead to a miscarriage of justice. The reports read by Senator Smith of the judgments in these cases seem to be very sound and well-based. I feel very uneasy about this suggestion to the judges that they should take special account of, and lay special weight upon, the evidence of a peace officer in such matters.

● (2110)

Hon. Jacques Flynn: I do not know if the amendment proposed in the motion of Senator Smith will carry. I hope that it will, but if it does not, at least it should serve as a warning to the Department of Justice not to introduce amendments to the Criminal Code of this type just on the basis of one recommendation in an endeavour to satisfy someone in Vancouver who complains that he has difficulty in obtaining a conviction under a certain section of the Criminal Code when he could obtain one if he knew enough to lay the charge under another section.

My second point is that a fault with this amendment is that if it is to be really useful it has to be inserted after every section of the Criminal Code defining an offence. The same reasoning applies to every other offence in the

Criminal Code, because any constable may give evidence with respect to any offence under the code.

Finally, in my opinion it is wrong, as was mentioned by Senator Forsey, to single out the evidence of a constable as against that of any other person.

I hope that the Senate will support the amendment proposed by Senator Smith. It would certainly constitute a good warning to the Department of Justice. In any event, the record will show that at least we were not sufficiently blind as not to recognize the silliness of the proposed amendment.

Hon. Joan Neiman: Honourable senators, as a member of the committee, I also raised this point at some length with the officials of the Department of Justice. It is the type of provision which I consider to be highly unnecessary and, in fact, quite dangerous. I objected to it then on principle, and I must say that I still object to its thrust. In my opinion, it is highly unnecessary. I might go even further than Senator Smith and say that I think it changes the law, in that it means that there is less emphasis or onus on the police officer to prove the fact that a disturbance took place. Therefore, I believe that this is the type of amendment that simply should not be included in this legislation.

Hon. Sidney L. Buckwold: Honourable senators, I was a member of the committee which took the opposite view. In my opinion, it is very important that we have this type of amendment—not that of Senator Smith but the amendment to the Criminal Code.

Senator Smith (Colchester): You encouraged me for a moment.

Senator Buckwold: You need a little encouragement on occasion, Senator Smith.

Senator Langlois: That is wishful thinking.

Senator Buckwold: I speak with some experience of many years as chairman of the police commission in a medium-sized city in which disturbances by hooligans, young thugs and people hanging around created some very significant problems in the community. The individuals charged in connection with those disturbances were usually not convicted because of lack of evidence. It got to the point that the police really did not want to lay charges, and in many cases the community was outraged, asking why the police force did not do something about the situation. Honourable senators, if you are really interested in law and order in our society and concerned about the fact that there is developing a disregard for the laws of this country on the part of many, you must start correcting the situation which this particular amendment to the Criminal Code is intended to correct.

Senator Flynn: No, it will not succeed.

Senator Buckwold: It will succeed in the sense that at least the police officer will have some encouragement to lay a charge, and the judge then will be able to determine whether the evidence is there. I say to honourable senators, when we consider society as it is developing today, that one of the real basic problems that has been created will be corrected by this amendment.

Senator Flynn: No such thing.

[Senator Flynn.]

Senator Buckwold: And it will lead, in my opinion, to significant improvement in the attitude of the public and the attitude of those who create disturbances and, perhaps more important, it will be of encouragement to police officers to do their duty. I certainly hope that Senator Smith's amendment is not carried.

Senator Smith (Colchester): Would the honourable senator permit a question arising out of his comments? I notice that he said words to the effect that the persons he had in mind could not be convicted because there was not sufficient evidence. Does he really believe that people should be convicted without sufficient evidence?

Senator Buckwold: I do not think that is really a fair question.

Senator Flynn: It is a good question.

Senator Buckwold: Certainly, I do not believe that an accused should be convicted on insufficient evidence, but surely it should be possible to have a police officer give evidence that would be considered by the judge, something that has not been done—

Senator Grosart: No, no.

Senator Buckwold: That has not been the case up to the present time in many instances. My honourable opponents find this very amusing; it is one of the funny things that have been said, but that is the way the law reads, the way it has been interpreted, and that is why the attorneys general of all provinces, without any exception, have supported this type of improvement to the Criminal Code.

Senator Flynn: Encouragement to the police officers, you say.

Hon. Allister Grosart: I am amazed at the statement we have just heard, which does not seem to have very much to do with the stated effect of this amendment. I do not believe anyone has said that the purpose of the amendment before us is to encourage police officers to lay charges. This is a completely new concept, and one that I had not heard before in all the discussions, including those in committee, which I have read. I am disturbed, however, by what I have heard. Although I am not a lawyer, it seems to me that the intention here is to give greater credence in this particular case to the evidence of one citizen as against the evidence that might be given by another citizen. In other words, the intention appears to be to have the effect of giving greater credibility to the evidence of a police officer as against the evidence—perhaps contra evidence—of just as good and just as worthy a lay citizen. I would ask the sponsor of the bill if that is the intent? I cannot ask him to interpret the proposition, but I can ask him, as sponsor of the bill, if it is the intention to give greater weight to the evidence of the police officer as against that of another citizen?

● (2120)

Senator Flynn: In this particular case.

Senator Grosart: In this particular case—in the case of a disturbance.

Senator Langlois: Honourable senators, my answer to that question is in the negative, because, as Senator Smith has said, we are not changing anything in the law.

Senator Flynn: Then why?

Senator Langlois: Why? Because we have been asked to do so by the attorneys general of Canada. The attorneys general were consulted and they made representations to the Department of Justice. In my opinion, whenever such representations are made they should be listened to and taken into consideration. At any rate, the judges are left with the discretion to weigh the evidence as it is placed before them. It is not a question of weighing the evidence of a police officer against the evidence of another witness. It is in cases where there is no corroboration of the evidence of the police officer that the judge may infer that an offence was committed by the person who is brought before the court. The judge is left with the sole discretion, on the weight of the evidence, one way or the other. There is no change in that respect.

Senator Grosart: If, as the learned sponsor of the bill says, the effect is not to give greater credence to the evidence of the police officer, then what is it intended to do? What is the purpose of it?

Senator Langlois: I have already replied to that. The Deputy Leader of the Opposition did not listen to what I said. The only consequence of this amendment is that judges who have been reluctant, or who have refused, to take into consideration the uncorroborated evidence of police officers are reminded that they may infer from the evidence that an offence has been committed. Our information is that complainants are ready to file complaints about disturbances, but are reluctant to come forward and testify because they are afraid of those youngsters who are prone to create disturbances.

The only result of this amendment is that from now on a judge may—and I emphasize the word "may"—infer from the evidence of the police officer that a disturbance has been caused. If the judge does not believe the police officer and has reason to doubt his word, in his weighing of the evidence he is free at any time to put it aside.

Senator Grosart: I am grateful to the Deputy Leader of the Government, because I think I am now getting closer to an answer to my question. I believe he has said that the intent is to remind the judge of the law of evidence. Is that correct?

Senator Langlois: That is not what I said. The Deputy Leader of the Opposition did not understand what I said. He can read it tomorrow, when he may better understand it.

Senator Smith (Colchester): May I ask the Deputy Leader of the Government a question arising out of his earlier reply to Senator Grosart? As I understood him, he was making the argument that since the Attorney General of Canada wanted this change, therefore we had to agree to it.

Senator Langlois: I said that we should listen to the attorneys general of Canada.

Senator Smith (Colchester): Is he really advocating the position that because the Attorney General of Canada asked Parliament to do something, we must accept his wish?

Senator Langlois: Would the honourable senator repeat his question? Someone was speaking to me and I did not hear the question.

Senator Smith (Colchester): I will repeat my question. I thought I understood the Deputy Leader of the Government to say, in an earlier answer to Senator Grosart, something to the effect that the Attorney General of Canada wanted this amendment and consequently we should accept it. I asked the Deputy Leader of the Government whether he meant to put forward the proposition that if the Attorney General of Canada wanted Parliament to do something, we should accept his wish and do it.

Senator Langlois: My honourable friend used to be the Attorney General of a province, Minister of Justice, or something very close to it. I would reply to his question by asking what he would have thought if, after having made a recommendation to the Minister of Justice in the federal government, he had been totally ignored?

Senator Flynn: By Parliament?

Senator Langlois: No, by the government, which is proposing the present amendment. I said the government had a duty to consider it. I did not say that the government had to accept it. I said that consideration should be given to a recommendation unanimously passed by the attorneys general of Canada, and supported by the Conference of Commissioners on Uniformity of Law in Canada. I would not like to be in the position of a Minister of Justice who puts aside a recommendation of that kind.

Senator Smith (Colchester): I shall be glad to reply to the question of the Deputy Leader of the Government. When those kinds of propositions were put to me, I did my best to see that they were backed up by good sound reason and good sound law. Obviously, no one did that in this case.

MOTION IN AMENDMENT TO AMENDMENT

Hon. Frederick William Rowe: I have listened with interest, as I am sure have all honourable senators, to this argument. I am a little disturbed that we have here, on both sides of the house, some very eminent lawyers, some of the best legal minds in Canada, who are in dispute on this matter.

Senator Flynn: No.

Senator Langlois: Lawyers are trained to disagree.

Senator Rowe: As I listened to the debate, I found myself utterly confused. I have heard eminent lawyers, such as the Deputy Leader of the Government, make one statement, and another of our colleagues make another. If it is in order, Madam Speaker, I would like to move an amendment to the amendment.

I move, seconded by Senator Norrie, that the motion in amendment be not now adopted but that the bill be referred back to the Standing Senate Committee on Legal and Constitutional Affairs for further consideration.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, that this bill as amended be now read the third time.

In amendment, it is moved by the Honourable Senator Smith (Colchester), seconded by the Honourable Senator Haig, that the bill be not now read the third time as amended but that it be further amended as follows:

Delete clause 9 and renumber the following clauses accordingly.

In amendment, it is moved by the Honourable Senator Rowe, seconded by the Honourable Senator Norrie, that the motion in amendment of the Honourable Senator Smith (Colchester), seconded by the Honourable Senator Haig, be not now adopted but that the bill be referred back to the Standing Senate Committee on Legal and Constitutional Affairs for further consideration.

Is it your pleasure, honourable senators, to adopt the motion in amendment to the amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment to the amendment say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against, please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And more than two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

● (2130)

Motion in amendment of Senator Rowe negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Bélisle	Macdonald
Blois	Neiman
Flynn	Norrie
Forsey	Rowe
Godfrey	Smith (Colchester)
Grosart	Yuzyk—13.
Lang	

NAYS
THE HONOURABLE SENATORS

Austin	Basha
Barrow	Bonnell
Bourget	Langlois
Buckwold	Lefrançois
Carter	Lucier
Cook	McElman
Cottreau	McIlraith
Denis	Molson
Goldenberg	Perrault
Lafond	Stanbury—21.
Laird	

[The Hon. the Speaker.]

The Hon. the Speaker: I declare the motion in amendment to the amendment lost.

Senator Flynn: Never lost so well.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it. I declare the motion in amendment lost.

On motion of Senator Flynn, debate on the motion for third reading of the bill, as amended, adjourned.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Laird*).

Senator Laird: Honourable senators, having taken a quick unofficial count, I find that if there is to be any more business done in this house tonight, I am going to be very unpopular, so I ask that this order stand.

Order stands.

● (2140)

VISIT OF MEXICAN PARLIAMENTARY DELEGATION TO CANADA

DEBATE CONCLUDED

On the Inquiry of Senator Flynn:

That he will call the attention of the Senate to the visit of a Mexican Parliamentary delegation to Canada from 3rd to 11th February, 1976.

Senator Flynn: Honourable senators, I said the other night that I did not intend to speak since I was given permission to have the joint communiqué of the two delegations, Mexican and Canadian, printed as an appendix to *Hansard* of last Thursday. If no one else wishes to speak, Your Honour can declare that the debate has been concluded.

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

Hon. Senators: Agreed.

The Hon. the Speaker: As no honourable senator wishes to speak on this inquiry, the inquiry is considered as having been debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 17, 1976

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

Prayers.

ST. PATRICK'S DAY

TRIBUTES TO ST. PATRICK AND THE IRISH PEOPLE

Senator Grosart: Honourable senators, before the Orders are called, may I have leave of the Senate to call attention to the fact that this is the seventeenth of March.

Senator Perrault: At least you know the date, anyway.

Senator Grosart: This is the day of the patron saint of all Ireland, who brought the enlightenment of the western world first, of course, to Scotland, where it was not understood, and then to England, where it was not appreciated and was rejected. I say this as a Protestant Irishman, of course.

My excuse for rising at this time is that as far as I know there are only two members of the Canadian Parliament who were born in Ireland. One, of course, is our distinguished colleague, Senator Andy Thompson, who was born in Ulster, although I am not quite sure whether that qualifies him. I am the other, having been born many years ago, of course, in the city of Dublin, of which the poet said:

Och, Dublin City, there is no doubtin',
Bates every city upon the say;
For 'tis the capital of the finest nation,
Wid charmin' pisintry on a fruitful sod,
Fightin' like divils for conciliation,
An' hatin' each other for the love of God.

That was written in 1826, and is recorded by Lady Morgan in her memoirs. The indication is, as we all know, that there has not been much change in the basic nature of those of us who were born in Ireland and claim Irish blood in our veins.

Having said that, honourable senators, I am sure you will all be interested to know that there is one whom we would all wish to be with us on this day and I refer, of course, to Senator Michael Grattan O'Leary. Unfortunately he is not with us; in fact he is very ill. But he has asked me to bring to his colleagues here his greetings on this particular day when he would so much love to be with us.

Hon. Senators: Hear, hear!

Senator Perrault: Honourable senators, it is not possible for me to match the "blood eloquence" of Senator Grosart on this auspicious occasion. All of us have appreciated his remarks. Ireland, of course, is known as the land of saints and scholars, and certainly in Canada the Irish are also known as the race of politicians. Canadians of Irish descent have made a remarkable and proportionately higher contribution to the political life of this country than many other people. I cannot claim to have any Irish blood, but my good wife has some. But on behalf of all those of Irish descent on the government side, and those government supporters who today wish they were of Irish descent, may I join the honourable senator in the sentiments which he has expressed in observing this very great occasion. May I, as well, thank Senator Grosart for transmitting to all of us the greeting which he has received from Senator Grattan O'Leary. With that welcome message goes, in return, every good wish to Senator O'Leary from all of us.

DOCUMENTS TABLED

Senator Perrault tabled:

Report on the operations of the Shipping Conferences Exemption Act for the year ended December 31, 1975, pursuant to section 12 of the said Act, Chapter 39 (1st Supplement), R.S.C., 1970.

FOREIGN AFFAIRS

CHANGE IN COMMITTEE MEMBERSHIP

Senator Macdonald, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Asselin be substituted for that of the Honourable Senator Smith (Colchester) on the list of senators serving on the Standing Senate Committee on Foreign Affairs.

Motion agreed to.

● (1410)

RESTAURANT OF PARLIAMENT

SPECIAL JOINT COMMITTEE—CHANGE IN SENATE MEMBERSHIP

Senator Macdonald, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Belisle be substituted for that of the Honourable Senator O'Leary on the list of senators serving on the Special Joint Committee on the Restaurant of Parliament; and

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

Motion agreed to.

SESSIONS OF PARLIAMENT

ANNOUNCEMENT OF LEGISLATIVE PROGRAM—QUESTION AND ANSWER

Senator Flynn: Honourable senators, may I put a question to the Leader of the Government? As we have not had a Throne Speech since September 30, 1974, would the

leader please tell us if the government has in fact abandoned the practice of holding approximately one session of Parliament per annum? Also, has this government abandoned the time-honoured tradition of periodically informing Parliament and the Canadian people of its legislative program for the proximate and more remote future?

Senator Perrault: Honourable senators, I wish to give the assurance that the government has not abandoned the traditional practice of introducing from time to time general government plans and proposals in the form of a Speech from the Throne. The matter of the timing of the next Speech from the Throne is under consideration at all times.

Senator Flynn: Is it because the government has not been able to arrange or define its direction?

Senator Perrault: The government has never been afflicted by that problem, although the Opposition at times suffers from it.

Senator Flynn: In my opinion the people of Canada have had a feeling that this is the case.

TRANSPORTATION

CANADIAN NATIONAL RAILROAD SERVICES IN NEWFOUNDLAND—QUESTION ANSWERED

Senator Perrault: Honourable senators, on March 10 the Honourable Senator Duggan asked the following questions with respect to the Canadian National Railways:

> Will the leader please ascertain from the Ministry of Transport if the Canadian National Railways has sought, or is contemplating seeking, permission to increase CNR bus passenger fares in Newfoundland, and if so, to what extent?
>
> Is it correct to assume that the government will not favourably consider payment of any deficit incurred by bus passenger service in Newfoundland as it would do if the deficit were incurred by a passenger train service, as it does in all other parts of Canada?
>
> Did Canadian National Railways seek the advice and authority of the government prior to converting the passenger train service to a so-called passenger bus service and, if so, what advice did the government give Canadian National Railways, and also what authority in this respect?

The information which has been received from the Ministry of Transport is as follows: The CNR faced with rapidly declining patronage due to completion of the trans-Canada highway between Port aux Basques and St. John's, applied to the Canadian Transport Commission in September 1967 to upgrade its passenger service by substituting improved bus service for its rail service. Following public hearings which considered economic and service factors, the CN was granted permission to discontinue its rail passenger service for those points that could be better served by bus service on the trans-Canada highway as long as the requirement for passenger service continued.

With respect to deficit payments for the bus service, a recent Supreme Court decision ruled that the Railway Act permitted subsidy payments for railways passenger equipment only and that the CN Roadcruiser service was ineligible. It also ruled that the provincial government had jurisdiction to approve bus fares.

Accordingly, CN has applied recently to the province for permission to increase fares to offset rising costs as their fares have remained basically unchanged since inauguration of the bus service.

TRANS-CANADA HIGHWAY—MAINTENANCE COST SUBSIDIES FOR NEWFOUNDLAND AND PRINCE EDWARD ISLAND—QUESTION

Senator Bonnell: Would the Leader of the Government permit a supplementary question? Would he ascertain whether it is the intention of the Government of Canada to grant maintenance cost subsidies to the provinces of Newfoundland and Prince Edward Island, where rail service has been discontinued, in order to help pay for the extra maintenance costs of the trans-Canada highway in those two provinces, where there is always heavy transport of freight in potatoes and other commodities over our roads? As such transportation is now causing destruction to our roads, the cost of road maintenance will be greater, and I believe the CNR, through the federal government, should pay a greater share of the upkeep and repair of those roads.

Senator Perrault: Honourable senators, it is very likely that an inquiry has already gone forward from the Premier of Prince Edward Island to the Government of Canada. However, I will take the question as notice and will endeavour to obtain the replies which have been requested.

CRIMINAL LAW AMENDMENT BILL, 1975

BILL TO AMEND—THIRD READING

The Senate resumed from yesterday the debate of the motion of Senator Langlois for third reading of Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

MOTION IN AMENDMENT

Hon. Jacques Flynn: Honourable senators, following the very interesting debate last night on the amendment moved by Senator Smith (Colchester), I wish to deal now with section 75 of Bill C-71, which has been referred to by some as the *Morgentaler* amendment.

My first concern is whether this appellation is still justified. Honourable senators will recall that the occasion for this amendment—I dare not say the cause—was the decision of the Supreme Court of Canada to uphold a decision of the Quebec Court of Appeal, where a verdict of guilty was substituted for a verdict of acquittal in an abortion case. It was the first time—and this was confirmed in committee—that the Quebec Court of Appeal, or any other court of appeal in Canada, had used this provision of the Criminal Code, which gives the right to an appeal court to substitute a verdict of guilty for a verdict of acquittal when there has been an error in law.

I would point out that an error in law is an error made by the judge in instructing the jury, or in conducting the trial. If the facts are admitted—in other words, if it is quite obvious that the facts have proven the guilt of the accused, the ordering of a new trial would not normally bring any decision other than a verdict of guilty.

On the basis of this particular case, which provoked outcries from the defenders at all costs of the jury and from those who are of the opinion that abortion should be granted on demand, the Minister of Justice decided that we should remove from the courts of appeal—I use the word "courts," because it includes both the last court of appeal in the provinces and the Supreme Court of Canada—the right to substitute a verdict of guilty for a verdict of acquittal when the facts are admitted and there is obvious guilt. It is for this reason that it has been referred to as the *Morgentaler* amendment.

The amendment in question was originally proposed by the former Minister of Justice, the Honourable Otto Lang. He did not seem to have his heart in it, however, and that was probably one of the reasons behind the cabinet shuffle which saw Mr. Lang moved to Transport and Mr. Basford to Justice.

● (1420)

There was a second appeal to the Supreme Court of Canada involving Morgentaler, and the decision in that case was handed down two days ago. That decision rejected the petition of the Attorney General of the Province of Quebec for leave to appeal a decision of the Quebec Court of Appeal, which had sustained the verdict of acquittal arrived at by the lower court.

In the first *Morgentaler* case, the question was whether the accused could rely specifically on section 45 of the Criminal Code, which states that one must use reasonable care in performing a surgical operation. Other than in the first instance, where the judge said that such a defence should be considered, the courts were unanimous in the view that no one performing an abortion could rely on section 45. In the first case there was no factual defence of necessity. The Court of Appeal for the Province of Quebec, therefore, and the Supreme Court of Canada, did not decide whether the defence of necessity was available.

In the second case there was evidence offered in connection with a defence of necessity. Although the trial judge in the second case, in his instructions to the jury, suggested that this defence was not available, a verdict of acquittal was rendered. The Quebec Court of Appeal said that the defence of necessity was available. The judge writing the note in the appeal court said that the defence of necessity would have been available in the first case if there had been any evidence. But I suggest to you that this was not the tenor of the first decision. Also, it was only an *obiter dictum*. There was no evidence offered in that regard in the first case. The matter of the defence of necessity was only raised in the course of argument.

In any event, the Quebec Court of Appeal, in dealing with the second case, said that the defence of necessity is available, and the Supreme Court of Canada, in its decision of two days ago, rejected the petition of the Attorney General of the Province of Quebec for leave to appeal that decision. Implicit in the Supreme Court of Canada decision is the fact that, insofar as an abortion is concerned, a doctor can offer the defence of necessity. In other words, if an individual can convince a doctor that she will become very depressed and suicidal if an abortion is not performed, the doctor would then be in a position to raise the defence of necessity. That is the result of the Supreme Court of Canada's decision of two days ago.

The amendments made to the abortion laws in 1969 seemed to offer, if not a wide-open door, at least a half-open door to any medical doctor visited at his office by a patient saying, "I am completely depressed. I want to be aborted. You have to do it, otherwise I am going to kill myself, or I am going to become ill or insane." That is a problem we have to deal with in other ways.

The reason I put these facts before you, honourable senators, is to demonstrate the effects of the *Morgentaler* cases, No. 1 and No. 2. Incidentally, the *Morgentaler* case No. 1 is not yet completed because, as you know, a new trial has been ordered. What will result from this new trial is conjecture, but after the decision of the Supreme Court, we can easily guess. These cases are entirely irrelevant now. The amendment proposed in clause 75 of Bill C-71 says that a court of appeal, which includes the Supreme Court of Canada, will not from now on be able to do anything but order a new trial if there is an error in law, when all the facts are admitted and the guilt of the accused is obvious and cannot be disputed.

If this were the only problem, I do not think we would worry too much. However, the point I tried to make on second reading and in committee was that this occasion drew attention to a problem which is much more important than that of abortion, or of the decision in the *Morgentaler* case No. 1. Under the present law we are, as far as jurisprudence is concerned, giving the last word to the jury, not only in matters of fact but also in matters of law. As I have said before, I have no objection to the jury's having the last word in a matter of fact, but I have the strongest objection to a jury's having the last word in a matter of law.

The Minister of Justice appeared before the Standing Senate Committee on Legal and Constitutional Affairs on March 10, last Wednesday. I asked the minister at that time to justify the amendment, the deletion of this power of a court of appeal to substitute a verdict of guilty for a verdict of acquittal. As you know, the appeal court has the right to change a verdict of guilty to a verdict of acquittal. The appeal court has the right to say that the jury was wrong in fact when it convicted this person, and proceed to acquit that person without even ordering a new trial. When I asked the minister why he would delete this power of the court, which has been used only once in 36 years, he quoted from *Trial by Jury* by Sir Patrick Devlin, as he then was, who became Lord Chief Justice of England. He quoted at length, but I do not think I am distorting the opinion of the Chief Justice by quoting only the last part of the quotation made by the Honourable Mr. Basford. Mr. Justice Devlin says, and I quote:

● (1430)

> Wherever there is a trial by jury, the condemnation must be by a judgment which is both lawful and a judgment of the country. If his countrymen condemn a man and they exceed the law, he shall go free—

That is what I said. If the jury is wrong, the court of appeal will correct the situation.

> —if the law condemns him and nevertheless his countrymen acquit, he shall go free.

That is the end of the quotation of Sir Patrick Devlin. I am now quoting from the comments of the Honourable Mr. Basford:

That is the basis of the amendment as proposed.

I wish you would accept that, and I repeat Mr. Basford's statement:

That is the basis of the amendment as proposed.

And also Sir Patrick Devlin's statement:

If the law condemns him and nevertheless his countrymen acquit, he shall go free.

My first comment would be that if his countrymen acquit him, maybe; but a jury is not his countrymen. That might be the case in the old sense of the word, but it cannot be under present conditions. One jury is not representative of the whole population of Canada. I suggest to you that if a jury does that, then you will have one law in a given area of this country and another law somewhere else. You know that very well.

I am not referring to the abortion case, I am thinking of something else at this time. However, even if you were to consider the opinions, as far as abortion is concerned, you would come to the same conclusion. Where there is a divergence of opinion among the public as to whether or not certain acts should be considered crimes, you may have a jury in one area condemning someone and in another area acquitting him for the same act.

I ask you, is this fair? Are we going to accept the argument of the Minister of Justice when he says that this is the end of it, that his countrymen—12 of them, and sometimes only two of them, have a definite opinion among the group—will decide whether they will or will not apply the law? That is exactly what he says:

If the law condemns him and nevertheless his countrymen acquit, he shall go free.

Are we to accept that this situation is proper today?

Senator Croll: The judges do the same thing. Two different judges may give you two different verdicts, so what is the difference?

Senator Flynn: There is the appeal court to correct that, whereas here we have no appeal court. This is the very point I am making. Senator Croll is helping me with my argument.

Senator Croll: I am not trying to.

Senator Flynn: No, I am sure you're not trying—not trying to understand, that is. But you can be trying.

The appeal court may correct the error of a judge. But the appeal court may only correct an error in law and not one in fact made by a jury. What if somebody were to murder the Prime Minister today and say, "My defence is that I am rendering a service to the public," and the jury says, "Yes, you are right"—

Senator Lamontagne: You have to find a jury for that.

Senator Flynn: You would be surprised, or maybe you have a short memory. My friend Senator Lamontagne is not able to transpose the example I am giving to some other cases, but he should be able to do that.

I say to honourable senators who respect and revere the jury system that the best way to destroy it is to give the jury the power to decide in matters of law as well as fact, to have the final word whether it is a question of fact or a question of law. That will surely end up destroying the jury. I suggest here that the minister, on the basis of this simple argument that the jury should have the last word even in a matter of law, is moving in the wrong direction. I suggest to you that the problem is not confined to the unique occasion of this *Morgentaler* decision; it involves the whole jury system and the question of whether we are giving the jury too much power in matters of law.

I have said before and I repeat again that I detest the idea that we should amend the Criminal Code on the basis of only one case. In this situation, as I have tried to explain to you before, the case has become irrelevant because of the decision handed down by the Supreme Court of Canada two days ago. It is no longer relevant.

We are moving in the direction of giving more power to the jury in matters of law, whereas we should be making sure that the jury is limited and restricted in its purposes and jurisdiction to matters of fact. Obviously, this amendment has come about as a result of outcries in the popular press. When the Minister of Justice was asked why he made the amendment, he gave his reasons, and I have told you what they were, But it also appears that the government was influenced by these people who claimed that the jury system was in danger. In my opinion the system will be in real danger if the jury is given too much power, if it is not restricted to its proper role, which is the weighing of the facts only in a case.

I will never accept the idea that a jury can change the law of the country. That is up to Parliament. Honourable senators who believe they have something to say in matters of legislation must, I submit, accept my proposal that the last word should never be given to the jury in a matter of law.

My argument, therefore, is that in this particular case, instead of reacting to the outcries of the most vociferous of those expressing opinions, the minister should have referred the whole question of the jury system to the Law Reform Commission of Canada. Mind you, there were numerous expressions of opinion in the press and elsewhere which were opposed to this amendment, but they were not listened to at all. I have many clippings indicating that this amendment is taking us in the wrong direction.

Senator Croll: Did the Law Reform Commission wish to have this matter sent to it?

Senator Flynn: When I asked the minister why he did not send the matter to the commission, he answered, "It already has too much work to do and we don't need it." But in my opinion it should go to the commission, and that is my suggestion. As I say, other opinions have been expressed. Indeed, all the judges I have talked to—

Senator Croll: Oh, you talked to judges, did you?

Senator Perrault: Oh! Oh!

Some Hon. Senators: Oh, Oh!

Senator Flynn: I was really expecting that reaction. I am not naïve enough to have supposed that there would not be such a reaction, but the difference is that I know when it is proper to talk to a judge and when it is improper to do so. I can speak to a judge about anything except a case which is pending before him.

Senator Croll: This is pending, is it not?

Senator Flynn: No, a final decision of the Supreme Court has been handed down, and, in any event, I was not talking of the *Morgentaler* case at all.

Senator Croll: Don't get too serious.

Senator Flynn: I am being serious, because, although occasionally I do not mind your trying to divert me, I do object to your trying to divert the attention of your colleagues from the main point I am attempting to make now. I have talked to many judges who exercise their functions in the field of criminal law, and they all recognize that there is a problem, not connected with any case actually before them but with regard to cases that they have heard before.

● (1440)

I want to make myself clear. I have not mentioned any specific case. I asked the Minister of Justice whether he had consulted the Judiciary, and he started out with the same kind of remark that you just made, Senator Croll, with the object, of course, of trying to divert attention from the subject; but this is one case where he could communicate with the judge. He should know that he can do that, and he should know when he may not do that. He should have consulted the Judiciary about this matter.

The Judiciary are all concerned with this problem, because there have very often been cases where not all 12 of the jury, but perhaps only two of them, have a personal opinion on a certain matter, and will not render a verdict of guilty, even though the facts are admitted. I suggest to you, honourable senators, that this problem is more important than the problem which gave rise to the amendment that was put by the Minister of Justice.

I ask you, honourable senators: What should we do? I suggest to you that we should simply delete this clause of the bill. There is no technical problem with regard to that. The government side is always concerned with the problem of making an amendment, and with what is going to happen in the other place as a result. Let me remind you that we have already made 13 amendments to the bill, and it has to go back there in any case, but if we were to delete this clause the other place would at least have to consider our views. If they do not like the amendment, they can resist it, but we will have brought to the attention of the public the fact that the Senate is not a slave to public opinion as we find it generally expressed in the popular media. I would say that those who favoured this amendment were more vociferous than the rest, but I suggest that they do not represent a majority.

We should delete this clause, as I say, and have the Minister of Justice and the government refer this matter to the Law Reform Commission, which should study in depth the jury system as we know it, and compare today's needs in this regard with the needs of 600 or 700 years ago, at the time of Magna Carta. At that time, of course, the jury was needed to protect the individual from abuse by the Executive, which then controlled the Judiciary. This, however, is not the case today. Today, if there are occasional interventions they are considered breaches of ethics and the matter is usually corrected, but interventions of today are not in the same category as those of centuries past, as Senator Croll will readily recognize. This, however, is not the problem. Let the Law Reform Commission examine the jury system in the light of today's needs and report on it.

[Senator Croll.]

If we adopt this amendment we will, to my mind, be going in precisely the wrong direction by confirming the power of a jury to change the law, or to refuse to apply the law. This is something that the Minister of Justice admitted himself.

I therefore ask you, honourable senators, to follow my suggestion. I consider that this is an appropriate occasion for this body to do something about a problem which I consider to be an important matter of principle. If we act incorrectly now our actions may have extremely serious repercussions in the future. If we adopt this amendment it will be very much more difficult for us to correct abuses by juries in the future. There should be a warning given against going in the direction taken by the Department of Justice and the Minister of Justice by saying, "Leave the law as it is."

If this amendment is adopted at this time it will correct nothing, not even the *Morgentaler* case, especially in view of the decision which was made two days ago. Let us keep the law as it is and examine it in depth. If we come to the conclusion that the solution lies in an amendment of this type, then perhaps at that time we could accept it. At present, however, we are responding to public reaction, reacting to one single case which has now become irrelevant, and that is the wrong thing to do.

The Senate is here to say, "Stop, look and listen." I am quite sure that no harm would result from the deletion of this section. Only good can come of it, especially if it were accompanied by an examination in depth of the whole jury system.

Senator Croll: Would the honourable senator allow me to ask one question?

Senator Flynn: Yes.

Senator Croll: Would you disagree with the statement that in 99 cases out of a hundred a man charged with a criminal offence would rather be tried by a judge and jury than by a judge without a jury?

Senator Flynn: I do not disagree with that. Perhaps I did not make myself clear. I am not arguing against the jury system. I am simply saying that juries should be confined to the jurisdiction that belongs to them, namely, the facts. The suggestion of Senator Croll is entirely wrong. It tends only to confuse the issue. He is trying to blur my argument by saying what he has just said. I am not against the jury system, I repeat, and if you would like me to repeat it a hundred times, I will. If you tell me, however, that you are not worried about a jury's being able to refuse to convict despite the fact that the evidence is undisputed that a crime has been committed, and in effect say, "We do not care what the law is, we are going to acquit this man just the same," then all I can say in reply is that it worries me a great deal, and I think it should worry the rest of you.

I therefore move, seconded by Senator Macdonald:

> That Bill C-71 be not now read the third time, as amended, but that it be further amended by deleting clause 75 thereof and renumbering the following clauses accordingly.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Langlois, seconded by the Hon-

ourable Senator Perrault, that this bill be now read a third time.

In amendment, it is moved by the Honourable Senator Flynn, seconded by the Honourable Senator Macdonald, that bill C-71 be not now read the third time, as amended, but that it be further amended by deleting clause 75 thereof and renumbering the following clauses accordingly.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Joan Neiman: Honourable senators, it is not very often that I disagree with my friend Senator Flynn on what we conceive to be a matter of principle. In this case, however, I do.

We have discussed this matter in committee. I listened with great attention to the arguments that Senator Flynn put forward then, as I have listened to him today, and I still do not fear the consequences of this amendment. I think that the rights of each person in Canada are fully protected. My feeling is that we are not taking away from the courts of appeal the right to adjudicate finally on any matter where a jury has rendered a verdict which may be wrong in law or in fact. The essential part of this amendment is that the court of appeal can and will order a new trial. I cannot conceive of any occasion on which a court of appeal in Canada would look at a judgment of a lower court or a jury and, where it saw there were obvious flaws and mistakes in the jury's concept of what the law was, not order a new trial. I think this is our protection above all.

● (1450)

As I pointed out to Senator Flynn before, I have great faith in the jury system, as he has, but I realize that people who compose juries and, indeed, judges themselves, are capable of making errors. However, I think all the protection we require is in this section as it stands. Therefore, in this case it is very important, if a jury makes a finding, that that finding should stand unless the court of appeal finds it has made an error in law. In such a circumstance I am absolutely confident that the court of appeal would send the case back for a new trial. I think this is exactly what this section demands.

Senator Flynn: Would the honourable senator permit a question? Under the present provision the only factor which would allow the court of appeal or the Supreme Court to order a new trial is an error in law committed by the judge. The court of appeal will not intervene if the error in law was made by the jury.

Senator Neiman: The court of appeal will intervene by ordering a new trial.

Senator Flynn: No, they cannot.

Senator Croll: The judge too.

Senator Flynn: No. They cannot.

Senator Neiman: It is a plain order in subparagraph (i).

Senator Flynn: Cite me one case.

Senator Neiman: Well, according to your own statement, Senator Flynn, we know that the *Morgentaler* case was the first time a court of appeal has entered a verdict of guilty. I have heard of hundreds of cases in my years of practising law—and I am not a criminal lawyer—and it is quite common practice for the court of appeal, when it does not approve of a verdict, to send the case back for a new trial. This is done time and time again, and will continue to be done.

Senator Flynn: In those cases there was an error in law made by the judge, but if there were no error in law made by the judge and the facts were admitted the court of appeal then could not intervene.

Hon. George I. Smith: Honourable senators, I wish to speak very briefly to the amendment. I should like to begin by saying that I find myself in a very unhappy position indeed in being forced to disagree with our able and charming colleague who has just spoken, but on this occasion it seems to me that the matter is of such importance, and I feel so strongly about it from a point of view different from hers, that I must try to overcome that reluctance to disagree with her and voice a few comments in support of the amendment.

I do so, not as one who is opposed to the jury system, but as one who is its great admirer, and as one who has faced a great many juries with varying success. If I may I will just take a moment to ask you all to think of the importance of the jury system, and, as I know many honourable senators have done, to think of yourselves and your client standing alone, charged with a serious offence, faced with all of the resources at the disposal of the state, and nothing to ensure that justice is done but the law, the judge, the jury and the strength of your own case and your ability to present it. And since many of you have been through that sort of experience I know you will agree with me when I say that the jury system is one of the bulwarks and, indeed, at one time was, and may still be, one of the chief bulwarks of our system of life in society and of our liberties.

So, honourable senators, when I speak in support of this amendment, I do so, not as one who has any doubts about the jury system in any essential way, but as one who believes in it firmly, and as one who also knows that juries, like every other human institution, can make errors. I think we have passed the time in the evolution of our society when we can accept the continued making of the same error in contravention of the same law as necessary to protect our freedoms and our liberties.

Senator Neiman said—and I do not take any issue with her on this—that if there is a mistake in law made by a jury in a criminal case the court of appeal can order a new trial. It may be that when the new trial is held before a new jury, with that new jury receiving different directions from the judge, the error in law will not be repeated. But what guarantee is there of that? Juries, like you and me—perhaps I should just confine this to myself—can be wrong not only once, but can be wrong again and again in a case which involves strong emotions or strong beliefs centered on some particular fact or feature of life. So, what guarantee is there in the law now, the case having been sent back for a new trial, that the new jury will not do exactly the same as the first one did? And, if the feeling is strong enough, perhaps it will happen a third time. The passing of this amendment in the bill before us would take away from the courts the right to remedy that situation and ensure

that the law, despite deliberate perversity, is after all capable of being enforced.

It is said, and it was said by the Minister of Justice in committee, that this law which the bill seeks to repeal has been in force for nearly 40 years, and has only been used once, and therefore it cannot be any good. Well, honourable senators, there are a number of fallacies in that argument. The first one is that it fails to recognize the fact that the very existence of a law which forbids something, or which gives the power to do something, may be a very salutary instrument in preserving law, decency and justice.

How many trials for treason have there been in Canada within your memory, honourable senators? How many? Does anybody advocate that that section of the Criminal Code which imposes a penalty for treason should be repealed because it has not been used for a long time, or not very often? To me the fact that it has not been used very often is no argument at all for repealing it and, indeed, may be a very good argument for feeling there is absolutely no necessity for repealing it. I feel too that the presenting of the amendment proposed in the bill is simply a quick reaction to an emotional situation about which many people felt strongly, and still do feel strongly, I have no doubt.

● (1500)

That is not the way in which to go about making carefully considered and useful changes in our law. Legislators, surely, when dealing with a matter as serious as the Criminal Code of Canada, a document as solemnly enacted as the Criminal Code of Canada, should not respond to every storm of criticism which happens to arise with respect to a case in connection with which there are strong emotions involving, perhaps, a considerable number of people disagreeing with others. Surely the Criminal Code is to be amended after careful study, after deliberate study, at a time sufficiently removed from any emotional circumstances. We could then, at least, have the best possible hope that the result would not be influenced by emotion, but that careful judgment and sober thought—so far as this chamber goes, I do not believe it would be wrong to use the expression "sober second thought"—would prevail.

Consequently, I support the amendment moved by my leader, and I invite all other honourable senators to do the same.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

Senator Flynn: The "nays", yes.

[Senator Smith (Colchester).]

The Hon. the Speaker: I declare the motion in amendment lost.

Some Hon. Senators: On division.

The Hon. the Speaker: On division?

Senator Flynn: On strong division.

Senator Croll: On weak division.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion for the third reading of the bill, as amended?

Senator Flynn: I do not think we should have amended this bill at all. I cannot see how you can accept the amendments made in committee.

Motion agreed to and bill, as amended, read third time and passed, on division.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, March 11, the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Keith Laird: Honourable senators, it seemed to me at one stage that there must be a conspiracy to keep me from speaking. I recall to your memories that last night, after some unexpected problems arose in this Chamber and we had that momentary pause, I did threaten to punish some of you by making you listen to me. However, there seemed to be something happening at the other end of the hall in which you were all interested, so I relented and, therefore, stood this order until today.

I take an opposite point of view from that of the sponsor of this bill, Senator Davey, who knows much more than I with respect to mass media, for which I must admit I have a certain amount of diffidence. However, in spite of the subject matter of the bill, the root of the problem goes so much deeper, and is of such great concern in our relations with the United States of America, that I have no alternative but to indicate that I simply cannot vote for Bill C-58 in its present form. I must say that while it is tempting to think in terms of voting against it on second reading—because, in general, second reading is taken to be acceptance of a bill in priciple—I do think that in these circumstances I would be justified in not taking any step to frustrate the bill's being considered in committee.

Senator Flynn: There is no danger. Even if you vote against it on second reading, it will be referred to committee.

Senator Laird: In any event, regardless of that, I certainly wish to make it plain that I desire the bill to be referred to committee. Let me put it this way to my friend, Senator Flynn: If we reduce this bill to a skeleton, perhaps we can put on some different kind of flesh, with which I might go along.

I am fortified in that stand—and this is a new point, which has not been made by any of the previous speakers, all of whom have been excellent—by a problem which could arise, and that is the constitutionality of any amendment we might make in this house to a tax bill. I certainly

do not intend to go into that in detail, because I am sure it will be considered fully in committee. In any event, that does form a very good reason for my now saying that in no way will I frustrate the reference of this bill to committee, because in my opinion it should be so considered. In fact, I happen to know that, in contemplation of this, various organizations have been invited to appear before the committee to give evidence. Naturally, the broadcasters and Maclean-Hunter have been invited.

By the way, just pausing at that point, some indications have been given in the speeches made so far that this is really a contest to a certain degree between *Maclean's* magazine and *Time* magazine. I must admit that I cannot see it that way at all. Frankly, I like *Maclean's* magazine, and read it. I read it in both the English and French editions, because usually the material is substantially different one from the other. I like it and, in my opinion, it is a good magazine. However, it is certainly not the kind of publication that *Life* was putting out. However—

Some Hon. Senators: *Time.*

Senator Laird: I am sorry; *Time.* But when I am speaking about *Time*, let me make this frightfully plain, that I have absolutely no brief for *Time* magazine, especially since they blithely assumed that this bill had passed Parliament. Like blazes it has passed Parliament; it is now in the Senate, and it is a long way from passing Parliament. I have no special brief for them, neither do I have any possible argument in favour of giving *Reader's Digest* and *Time* special treatment.

I am, I must admit, concerned by the deep implications involved in the broadcasting provisions of Bill C-58. In no way do I intend to repeat the excellent speech made on that aspect by Senator van Roggen. By the way, if you did not hear him or have not read his speech, I recommend that you take time to do so. It is an extremely good speech, well researched, and it deals with the full implications of these broadcasting provisions. You see, the thing that really concerns me greatly with respect to this bill is that it is simply another irritant thrown at the United States of America.

● (1510)

We are doing one thing after another to annoy that great country, that country which is our best friend, our biggest trading customer, the country on which we are almost entirely dependent for defence against foreign aggression—and this at a time when there never was a more interdependent world. What we are doing, with measures like Bill C-58, is moving back in the direction of isolation. What a time to pick for doing that!

As I have said, those who have spoken previously on this subject have stolen practically all my thunder in respect of details. All that I really intend to do today is to emphasize one aspect, which is that I do not like the addition of another irritant to the United States.

We are constantly doing this. I cannot go over the whole list but, for example, many honourable senators know the reaction to such legislation as the Foreign Investment Review Act. I admit that the Foreign Investment Review Agency has done an excellent job and a fair job, but nevertheless it is something very hard to explain to the Americans. Why must they take the chance, if they are going to buy something, of getting a favourable decision from the Foreign Investment Review Agency? Why must they go through all that rigmarole and perhaps be turned down? That is one thing.

I noticed in yesterday's *Globe and Mail*—this is not within our jurisdiction—an article dealing with potash. It appeared in the business section of yesterday's issue, and the first paragraph reads:

> The U.S. Senate, by an unrecorded voice vote, has adopted a resolution expressing concern over the proposed nationalization of part of Saskatchewan's potash industry.

There are so many other things. We in Ottawa are perhaps not responsible for a number of them. As an example, I point to the greatly increased land transfer tax on the purchase of property in Ontario by a non-resident. There are so many examples that I could keep going. It is just one irritant after another. The funny part of it is—I found this out from personal experience—that if we take an independent stand on some big issue like insisting on not breaking off relations with Cuba, I find that they do squawk at the beginning but eventually they understand our point of view.

We are constantly throwing irritants at the Americans and, I tell honourable senators, they are reaching the point where they are getting downright angry. In saying that, I do not speak academically or from an ivory tower. I am speaking from very practical experience. I have spoken to dozens, perhaps hundreds, of Americans about these problems, and in the last couple of months I deliberately accepted a couple of speaking engagements where the format was a speech followed by a question period. I spoke to two important and influential groups. One was the Senior Businessmen's Club at Grosse Pointe, which is a suburb of Detroit, and the other was the Rotary Club in Fort Myers, Florida. Honourable senators will understand the great personal sacrifice on my part in speaking there in January. In each case the format was a speech followed by questions.

There is no doubt in my mind about the attitude of the American people. I obtained some clippings, which unfortunately I did not bring with me, of articles written by American newspaper columnists who were, in fact, almost vindictive in their abuse of us and who listed various irritants. Such views were expressed, for example, by the American ambassador. Honourable senators may recall his comments. I do not remember how he expressed it, but he hit the nail on the head. They were realistic comments on how the United States feels about us.

During the weekend I read the Sunday edition of the Detroit *Free Press,* which is one of the most friendly, one might almost say pro-Canadian, publications, being so close to our border. Here is what that newspaper had to say about this particular bill:

> A bad taste has been left all 'round in the magazine dispute, and it's not likely to go away with the shifting of advertising revenue to Maclean's, the Canadian newsmagazine, and other purely domestic publications.
>
> It is not even certain that this will occur. Whatever the competitive outcome, Canadian readers will be

denied a magazine edition that for 33 years has been an important source of information and entertainment.

Surely that was not the intent of the O'Leary Commission that was established in 1960 to suggest ways of halting the decline of Canadian periodicals. It would be ironic if the pursuit of that commendable goal should restrict, rather than expand, the reading choices available to the Canadian public.

That is the attitude of a very moderate publication.

I continue to stress—because previous speakers have covered other aspects so thoroughly and in detail—that we cannot keep throwing these irritants at the American people and not expect a very violent reaction. We know what is going to happen. We are going to twist the elephant's tail once too often, and the elephant will turn around and use one of its tusks on a sensitive portion of our anatomy as we are running away. That is what will happen.

I therefore appeal to honourable senators to consider Bill C-58 in its wider implications and not just the material contained in it, even though, particularly in the broadcasting aspect, it is bad enough. This sort of thing, in combination with other irritants, is going right to the root of our relations with the United States, and we simply cannot afford to be on other than good terms with a country which, as I have said, is our best friend, our best customer, and our only real protection against foreign invasion. We just simply cannot afford to do that sort of thing.

Senator McElman: Would the honourable senator not agree that the purport of the editorial that he quoted from the Detroit newspaper was based on a wrong premise, in that it suggests that the choice of magazines which Canadians have would be reduced?

Senator Laird: I believe they did misunderstand the situation. The honourable senator will recall my saying that I did not consider this a contest between *Maclean's* and *Time*, as they seemed to think it was, because the magazines are quite different and are not really competing. I think they failed to understand that when they made their comment about *Maclean's* magazine.

Senator McElman: The purport of the editorial seemed to be that *Time* would be available only in the United States and not in Canada.

Senator Laird: I suppose it might be so construed. *Time* will be available in Canada, but I am informed that where formerly it's price was something like $18 a year, it has now been decided that for Canadians the price will go up to $30. I am speaking from hearsay. The honourable senator can check that for himself.

Senator Robichaud: It is a fact.

Senator Laird: Senator Robichaud says it is a fact.

● (1520)

Senator McElman: That fact does not affect its availability in Canada.

Senator Laird: If you want to pay the price, you can get it, just as you can get a great many other things if you are willing to pay the price.

Senator Smith (Colchester): You cannot get the Canadian content, though.

[Senator Laird.]

On motion of Senator Lafond, for Senator Lang, debate adjourned.

STATUTE LAW (VETERANS AND RETURNED SOLDIERS' INSURANCE) AMENDMENT BILL, 1976

SECOND READING

The Senate resumed from Thursday, March 11, the debate on the motion of Senator Carter for second reading of Bill C-86, to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act.

Hon. John M. Macdonald: Honourable senators, little remains to be said after Senator Carter's excellent presentation of this bill and explanation as to the purport of the proposed amendments. As you are all aware, Senator Carter has been a great friend of the veteran for many years, but it might surprise you to learn that he is a veteran of both World War I and World War II. How he ever got into the Royal Newfoundland Regiment at age 15 is beyond me, but apparently he did.

Bill C-86, if enacted, will amend two acts of Parliament relating to life insurance for war veterans—the Veterans Insurance Act and the Returned Soldiers' Insurance Act. The proposed amendments will, I know, receive sympathetic support in this chamber, as does all legislation concerning war veterans.

The acts in question have been of great importance to veterans, though it is surprising, perhaps, that their provisions have not been more widely used. Their purpose, of course, was to allow veterans who were unable to meet the medical standards set by commercial insurance companies to obtain life insurance coverage.

It is interesting to recall some of the statistics given us by the sponsor of the bill. As he mentioned, approximately 48,000 policies under the Returned Soldiers' Insurance Act were issued between 1920 and 1933, representing a face value of just under $109 million. However, some 18,000 of those policies have been settled by way of death claims, with about the same number having been surrendered for cash value, and some 9,000 were terminated for other reasons. It is good to know that just over 2,500 of these policyholders are still surviving, all of them now being over 70 years of age. The average age, in fact, is 82. Perhaps there is something in the old saying that old soldiers never die; they simply fade away.

It is also interesting to note that under the Veterans Insurance Act, which applies to veterans of World War II and the Korean War, some 56,000 contracts were entered into between 1944 and 1968, with a face value of $185 million. Just over 9,000 of these contracts have already been settled by way of death claims, and 4,200 were terminated for other reasons. Nineteen thousand policies still remain in force, with a face value of about $60 million.

It is somewhat disturbing to note that for some reason or other, 23,500 of these policies have been surrendered for cash value. This seems to be a high proportion. I only hope they were surrendered because it was to the advantage of the policyholders and not because of economic necessity.

Honourable senators, I realize I have not been discussing the amendments contained in this bill, and I ask your indulgence to make one further observation before doing so.

Quite often, legislation dealing with veterans is considered to be social legislation; indeed, it is sometimes considered as welfare legislation. During the course of debate on this bill in the other place, it was at least implied that this was some kind of social legislation. To my mind, it is wholly wrong to consider such legislation as social or welfare legislation, although it may, of course, deal with the social needs of veterans. I do not believe legislation which confers benefits of one kind or another on veterans should be considered as a gift from a grateful country or, in any sense, a welfare scheme. I believe such benefits are payments due from Canada for extraordinary services rendered at its request by these veterans of World War I, World War II and the Korean War. These men and women were asked to make an extraordinary contribution, a sacrifice, if you wish, not normally asked by one's country, and those who answered that call, those who made that extraordinary contribution and, indeed, those who suffered as a result of wartime service, deserve payment—extra payment, if it can be so called.

I think of all legislation relating to war veterans which confers benefits or payments for services rendered, not as social legislation or social benefits, which are or could be available to other Canadians, but simply as compensation for services rendered, which services, in many cases, resulted in permanent disability to those who served.

Honourable senators, Bill C-86 provides for a change in the manner of insurance settlements as policies mature through death. This is a worthwhile provision, and one to which there seems to be no objection. It also provides that the so-called common-law spouse, designated by the veteran as his or her beneficiary, may be paid the proceeds of the policy in two circumstances, the first of which is where the couple had resided together and had represented themselves as man and wife for a period of at least three years immediately prior to the death of the veteran, and where marriage was prohibited on account of a previous marriage. I would not expect, in light of the fairly wide grounds for divorce available, that a great many would require that provision. However, there may well be cases where the couple did not marry for reasons other than being barred from so doing by a previous marriage. The bill does not deal with that aspect.

The provision I have just dealt with has caused some concern as it is felt that it might create an injustice insofar as the legal spouse is concerned. This, I feel, is a legitimate concern, although the bill does offer some protection in that regard.

The second circumstance under which the proceeds of the policy may be paid to the so-called common-law wife is where the couple had resided together and publicly represented themselves as man and wife, where there was no bar to marriage, for one year immediately preceding the death of the policyholder.

I do not know why the period is one year under this provision and three years under the other. I would have expected the time periods to be reversed, or both made three years so as to prevent any benefit under these policies from accruing to the common-law spouse in a temporary relationship, although that same provision, I know, can be found in various other pieces of legislation.

I mentioned the concern that one of the provisions of this bill could result in an injustice to a legal spouse; that by doing away with one injustice we may be creating another. However, I think there is at least some protection for the legal spouse in the authority the bill gives to the minister. The minister must be satisfied about the circumstances, and must direct that the beneficiary named be considered the spouse of the deceased veteran.

● (1530)

Our Ministers of Veterans Affairs have all been men of high character and high quality, and we have also been fortunate in the high quality of the people in the Department of Veterans Affairs who have administered these acts. Given this situation, I think the chance of an injustice being done to the legal spouse is remote, so I believe we can in good conscience support the bill.

I do not think it is necessary to give this bill a more detailed examination in committee, as I believe the remarks of the sponsor, Senator Carter, and of myself have made the situation clear.

Hon. Chesley W. Carter: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Carter speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Carter: Honourable senators, I rise merely to thank Senator Macdonald for his splendid contribution to this debate, and also for his very kind references to myself. I endorse fully the statement he made that this is not social legislation, and should not be considered as such. I am grateful to him for saying he does not think we need refer this bill to committee. The ranks of the veterans covered under the Veterans Insurance Act and the Returned Soldiers' Insurance Act are getting thinner every day, and I think it advisable to pass the legislation at the earliest possible date.

Motion agreed to and bill read second time.

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

Senator Croll: Now.

Senator Flynn: It might as well be at the next sitting. The bill cannot get royal assent today.

Senator Carter moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—MOTION FOR ADOPTION OF REPORT OF COMMITTEE—DEBATE CONTINUED

The Senate resumed from Wednesday, February 25, the debate on the motion of Senator Laird for the adoption of the Report of the Standing Senate Committee on Internal Economy, Budgets and Administration, which was presented on February 24.

MOTION IN AMENDMENT

● (1540)

[*Translation*]

Hon. Jean-Pierre Côté: Honourable senators, I would

like to specify at the beginning of my speech that my comments on the report of the Standing Committee on Internal Economy, Budgets and Administration are in no way meant to be an attack against the members of that committee who do an excellent job, but this time they had to tackle a difficult motion.

In addition I would like you to believe that even if my remarks seem rather harsh to some people, they are not made to ridicule the recommendations included in the report, but rather to make a constructive contribution.

Honourable senators, those comments will be brief although the report of the Committee on Internal Economy, Budgets and Administration suggesting rules entitled: "Regulations of the Senate respecting attendance of Senators at sittings of the Senate and deductions to be made from the sessional allowance" has given rise in me to all kinds of thoughts. I come to the specific point of my disagreement, which is paragraph 2 of the report published in the *Minutes of the Proceedings of the Senate*, on Tuesday, February 24, 1976, which seems to reflect on our pride as senators. I quote:

> Your Committee recommends that a Senator, when certifying his or her absences from sittings of the Senate for reasons of public or official business include in such certifications the nature of the public or official business, and the date and location where such public or official business was performed.

I find that the proposal to certify the nature and the location and other details when a senator is absent from a sitting of the Senate for réasons of official or public business, is unworthy of the confidence that should be given to members of the Senate.

It is not normal that a committee on internal economy, because it is bi-partisan in its composition, in the present situation, should be made aware of the nature, the location and the date of functions pertinent to public business of senators. Besides casting serious aspersions on their credibility, this proposal risks seriously jeopardizing the confidentiality of some representations and under an administrative pretext, questions the ethics of the members of the Senate. If politics worry some senators, they should hardly be sitting in their place in the Senate, next to the other place, in a building where it is practically the only thing being dealt with. That being said, since we accept that senators can be absent on public business, according to the definition given by Mr. E. R. Hopkins, former Law Clerk and Parliamentary Counsel to the Senate, the business of the House should not be held up by finicky rules, and that the extra senatorial responsibilities performed in spite of fatigue and tension inherent in such responsibilities should not be tempered with.

I do not agree at all, I repeat, with the establishment of this little "home court" which, officially, would serve as a censor but which, practically, as Senator Laird admitted during the sitting of February 25, would in fact function under an official.

[Senator Côté.]

I might now, if you permit me, draw a parallel between the manner in which the matter of attendance is dealt with here in the Senate and the manner in which it is dealt with in the other place.

In the other place, first of all, attendance is not taken in the very chamber of the House of Commons, whereas here it is taken at the entrance to the Senate, not only by a clerk of the Senate, as we could imagine, but indeed by two officers. I am not sure whether there are not also some in the galleries. The list of senators in attendance is found on the front page of the *Minutes of the Proceedings of the Senate* the following day, whereas it is not published for the other place, for the good reason that it is not registered. The only exception is at the time of a vote; the names are then published in the *House of Commons Debates*.

Let us now deal with absences. The reasons which can warrant absence are the same in both houses, under sections 37 (1) and (2) and 38 of the Revised Statutes of Canada, 1970, except that here in the Senate, when someone says he or she is ill, his or her word is not quite sufficient a physician's certificate must be secured. Woe unto the senator who is ill for more than three days and who takes care of himself without a physician's help, he will be penalized.

Let us now come to absences for "public business". Here in the Senate, if we are absent for the above-mentioned reason, we must send, for each day of absence, a letter to the Clerk of the Senate telling him we had to take leave for reasons of "public business". In the other place, there is no need to report such absences, either orally or in writing.

Now the committee says it is not satisfied with the terms of the present rules and wants to force senators to state "the nature, the date and location" of the public or official business. One does not have to be a genius to notice that the House of Commons, in its internal regulations, has obviously more respect for its members than the Senate has for its. Well, if we are to keep registering attendance in the Senate, let us keep doing it, since it is the tradition. But, in spite of all the precautions to obtain attendance, participation in the debates is not necessarily better. Indeed it suffices to go beyond the bar of the Senate to be recognized and have one's name, as I said before, on the front page of the Senate *Minutes*. I may be exaggerating a bit but one could almost in the same dash go out again through the door one has just entered and still have respected the letter of the law. Who knows, perhaps we should expect that some day a time clock will be installed at the entrance to the Senate to check arrivals and departures, coupled with close supervision to make sure that no senator—would one dare—punches the card of a friendly colleague?

All things considered, the lack of confidence could go further. Has it not occurred to the committee that the senator who claims to have attended such and such a meeting, an interview or a "public function" may have somewhat glossed the truth? He should then be required to come back with a note attesting to his presence, as we used to do at college with the confession ticket. The circle of mistrust would then be complete.

In the other place, the only proof required when a member has been absent, because of sickness, official business or "public function", is that he should fill in a form indicating the number of days he was away and sign it.

With your permission, I shall table a copy of this form so that my colleagues can read it and see if the form used in the House of Commons would not be suitable for the Senate.

To conclude my remarks, because of the suspicion which transpires in this way of dealing with the matter of the absence of senators—which is a tricky situation, I admit, because of the administration of the proposed rule which appears inapplicable in view of the lack of discretion of the procedure—I disagree with the recommendations of the Committee on Internal Economy, Budgets and Administration. I, for one, shall not abide by these requirements.

For these reasons, in view of the fact that the report of the Standing Committee on Internal Economy, Budgets and Administration, to which was referred the subject matter of a motion containing proposed regulations entitled "Regulations of the Senate respecting attendance of senators at sittings of the Senate and deductions to be made from the sessional allowance", which was submitted for approval of the Senate on Tuesday, February 24, 1976, is obviously in conflict with the freedom of action which should preside at official functions and "public affairs", I intend to move an amendment requiring that the report be amended so as to satisfy both the honour and the freedom of action of senators.

Therefore I move, seconded by Senator Robichaud, that:

> The report of the said committee be not now adopted but that it be referred back to the committee with instructions to study the possibility of modifying the formula proposed in the report to record and control the absences of senators and of adopting a procedure similar to that of the other House in this regard.

The Hon. the Speaker: Senator Laird, seconded by Senator Petten, moved that the report of the Standing Committee on Internal Economy, Budgets and Administration be adopted and, in amendment, Senator Coté, seconded by Senator Robichaud, moved that:

> The report be not now adopted but that it be referred back to the committee with instructions to study the possibility of modifying the formula proposed in the report to record and control the absences of senators and of adopting a procedure similar to that of the other place in this regard.

Is it your pleasure, honourable senators, to adopt the motion?

[*English*]

On motion of Senator Robichaud, debate on the motion, in amendment, adjourned.

SCIENCE POLICY

NOTICE OF COMMITTEE MEETING

Senator Lamontagne: Honourable senators, I remind the members of the Standing Senate Committee on Science Policy that we will meet now instead of the original time of 3.30 p.m.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, March 18, 1976

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

Prayers.

NATIONAL CAPITAL REGION

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the names of Messrs. Oberle and Darling had been substituted for those of Messrs. Macquarrie and Bawden on the list of members appointed to serve on the Special Joint Committee on the National Capital Region.

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—FIRST READING

Senator Molgat presented Bill S-33, respecting United Grain Growers Limited.

Bill read first time.

Senator Molgat moved that the bill be placed on the Orders of the Day for second reading on Monday next.

Motion agreed to.

NATIONAL CAPITAL REGION

SECOND REPORT OF SPECIAL JOINT COMMITTEE PRESENTED AND ADOPTED

Senator McIlraith, for Senator Deschatelets, Joint Chairman of the Special Joint Committee of the Senate and House of Commons on the National Capital Region, presented the following report:

Thursday, March 18, 1976

The Special Joint Committee of the Senate and of the House of Commons on the National Capital Region has the honour to present its second report, as follows:

Your committee recommends that it be authorized to retain the services of advisers and such additional professional, stenographic and clerical staff as is required during the committee's consideration and review of matters bearing upon the development of the National Capital Region.

Respectfully submitted,

Jean-Paul Deschatelets,
Joint Chairman.

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

Senator McIlraith: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(e), I move that this report be adopted now.

The Hon. the Speaker: Honourable senators, the house has heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Senator McIlraith: Honourable senators, the reason for asking that special consideration be given to this report is that the committee plans to meet on Monday. Since the Senate does not meet until Monday night and the committee hopes to discuss plans for retaining the advisers and various types of professional and other assistance enumerated in the report, I would ask for the indulgence of the Senate in this connection.

Senator Flynn: I understand that this is only in connection with a meeting to discuss the retaining of staff. Of course, if the Senate is to share in the expenditures, the committee would have to submit a budget for the approval of the Standing Committee on Internal Economy, Budgets and Administration.

Senator McIlraith: Yes, that is correct. The request is only to enable the committee to discuss the matter with a view to preparing a budget which, of course, will be submitted to the Standing Committee on Internal Economy, Budgets and Administration.

Motion agreed to and report adopted.

BANKING, TRADE AND COMMERCE

CHANGE IN COMMITTEE MEMBERSHIP

Senator Perrault, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the names of the Honourable Senators Austin and Lafond be added to the list of senators serving on the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Perrault: Honourable senators with leave of the Senate and notwithstanding rule 45(1)(g), I move, seconded by Senator Lafond, that when the Senate adjourns today it do stand adjourned until Monday, March 22, 1976, at 8 o'clock in the evening.

Before the motion is put, I should like to give the usual short summary of what we can expect for the coming week.

First, in the area of committees, in moving the adjournment until Monday evening we have taken into consideration the volume of work facing our committees and the necessity of devoting Tuesday mornings and afternoons to committee work.

On Tuesday morning the Standing Senate Committee on Legal and Constitutional Affairs will meet at 10 a.m. on the subject matter of Bill C-83 an act for the better protection of Canadian society against perpetrators of violent and other crime. The Standing Senate Committee on Foreign Affairs will meet at 2.30 p.m. to continue its examination of Canada's relations with the United States. The Standing Senate Committee on National Finance will meet at 3.30 p.m. to deal with supplementary estimates (B), and the Special Joint Committee on Regulations and other Statutory Instruments has called a meeting for 8.30 in the evening.

On Wednesday the Standing Senate Committee on Banking, Trade and Commerce will meet at 9.30 a.m. If Bill C-58, to amend the Income Tax Act, has been referred, the committee will commence its consideration of the bill on Wednesday morning; otherwise the committee will continue its examination of Canadian textile problems. The Special Senate Committee on Science Policy will meet on Wednesday when the Senate rises. That should be at approximately 3.30 in the afternoon.

On Thursday there will be another meeting of the Foreign Affairs Committee, at 9.30 a.m., on Canada-United States relations. It is also expected that there will be a meeting of the Special Joint Committee on Regulations and other Statutory Instruments on Thursday, but this has not been confirmed.

In the Senate, we will continue with the second reading debate on Bill C-58, to amend the Income Tax Act, and the other items on the Order Paper, and deal with such legislation as may come to us from the other place.

Senator Flynn: Would the Leader of the Government dare say what we may expect from the other place in the way of other legislation?

Senator Perrault: In reply to the Leader of the Opposition, I must say that the attitude of the Opposition in the other place will largely determine the legislation which may be coming to us.

Senator Flynn: That is a clear answer.

Senator Goldenberg: Honourable senators, if I may be permitted to add to what the government leader has said, the Standing Senate Committee on Legal and Constitutional Affairs is meeting at 10 a.m. and also at 2.30 p.m. on Tuesday.

● (1410)

Senator Flynn: You are becoming a slave-driver.

Senator Grosart: I wonder if I might ask the Leader of the Government if it is the intention to adjourn the Senate on Wednesday, or any other day, at approximately 3.30 p.m., to avoid the situation which has developed on the last two Wednesdays when, as I indicated previously, a large number of senior civil servants were sitting around waiting for the Special Senate Committee on Science Policy to get under way. Is it the intention to set 3.30 on Wednesday afternoons as a fairly definite adjournment time?

Senator Perrault: That is a subject of serious consideration and discussion at the present time. It is hoped that Senator Bourget, and his associates, who have assumed some of the responsibility for coordinating committee activities, can meet next week with all committee chairmen. I hope to have a more precise answer to your question after that meeting. I am pleased to report that as a result of the cooperation between the opposition and government forces—

Senator Grosart: As usual.

Senator Perrault: —and under the leadership of Senators Bourget and Cook, as well as representatives of the opposition, notably Senator Macdonald, we are in the process of developing a schedule which should avoid many of the difficulties with which we have been confronted in the past.

Senator Everett: I would hope, honourable senators, that the government leader, in light of the proposed new schedule for sittings of the Senate, would give consideration to causing Wednesdays to be a committee day, and not have the Senate sit at all on Wednesdays.

Senator Perrault: That suggestion will be given serious consideration. There are caucus obligations on Wednesdays, however, on the part of both opposition and government forces which many senators would like to fulfill, totally apart from their other activities.

Senator Everett: I do not know if that was intended to be an answer to my question. I am suggesting that if Wednesdays were set aside as a committee day rather than a sitting day for the Senate, bearing in mind that caucus obligations only extend until noon, the afternoons could be totally devoted to committee work.

Senator Grosart suggested that the Senate might adjourn at 3.30 p.m. on Wednesdays, so that committees can sit. I question whether that would be satisfactory. The fact is that once the Senate sits at 2 p.m., you cannot be sure when it will adjourn. It may adjourn at 3.30 o'clock; it may not adjourn until 5 o'clock. For that reason, there is a lot to be said—and I feel the government should give this serious consideration—for having the Senate adjourn on Tuesdays to sit again on Thursdays, with Wednesdays then being available for committee sittings. I can assure the Leader of the Government, on the basis of committee sittings as opposed to the work in this chamber, that Wednesdays would be fully utilized.

Senator Perrault: Your suggestion will be given serious consideration.

Senator Grosart: May I ask a supplementary of the Leader of the Government? If as leader you were to move the adjournment of the Senate at or about 3.30 p.m. on any day, would you anticipate any difficulty in having that motion passed by the Senate?

Senator Perrault: It would be presumptuous of me to attempt to read the minds of honourable senators.

Senator Everett: I might say, if Senator Grosart were speaking, the whole issue might be in question.

Some Hon. Senators: Oh, oh.

Senator Flynn: Honourable senators, I merely want to say that if it were by order of the Senate that the Senate should sit from 2 o'clock to 3 o'clock, or 3.30, on Wednesdays, that order would prevail.

Senator Grosart: Of course it would.

Senator Flynn: Assuming there was such an order, there would be no difficulty in the Senate's adjourning at that time. I would much rather the Senate sit at least for an hour on Wednesdays than not sit at all, following which we could carry on with our committee work.

Senator Perrault: I want to assure the house that both proposals will be considered at the meeting next week, at which time we will be in a much better position to discuss the matter more fully.

Senator Rowe: Honourable senators, I understood from what Senator Goldenberg said a moment ago that the Standing Senate Committee on Legal and Constitutional Affairs will be sitting on Tuesday afternoon. I also understood the Leader of the Government to say that the Standing Senate Committee on Foreign Affairs will also be sitting on Tuesday afternoon. I wonder if anyone can answer this question. When the decision was taken in respect of those two committees, did one committee know that the other was going to sit simultaneously? It was my understanding that one reason why we extended our sittings to sit on Monday evening was so that we would not have a major duplication of committee sittings.

At present the Foreign Affairs Committee is engaged in some very important considerations, which I believe is also true of the Legal and Constitutional Affairs Committee, of which Senator Goldenberg is chairman. Is there no way that we can avoid having these two committees sitting at the same hour? I am sure there must be some honourable senators who are members of both committees, and I think it is most regrettable that, in spite of extending our Senate sittings to Monday evening, we still have continued duplication of committee sittings.

Senator Bourget: That is what we are now looking into. We are trying to arrange to have one committee sit at, say, 9.30 a.m. and the other at 10.30 a.m. so that Opposition senators, particularly, of whom there are so few, could at least attend one committee for an hour and then go on to the other committee. That is what I am working on with Senator Cook. As the Leader of the Government just said, next week there will be a meeting of all committee chairmen, when these sorts of questions will be discussed. The suggestion of Senator Rowe will certainly be examined at that time.

Senator Rowe: Honourable senators, without belabouring the point, may I say that while I appreciate the disability under which the Opposition in this chamber labours in this regard—and it is to their credit that they make such valiant efforts to discharge their responsibilities as committee members—it is also a frustrating experience for members on our side as well, who are members of and interested and concerned in the activities of two committees, to find that simultaneously with the sitting of one the other is holding an important hearing as well. We cannot attend both. In addition to giving consideration to the predicament of the Opposition, serious consideration should also be given to the frustration experienced by all members of the Senate who are members of two or more committees when they find that two or three of them are sitting simultaneously.

Senator Bourget: Senator Rowe's point is well taken. I again assure him that we will look into it so as to prevent a conflict for members of our side of the house as well. We will discuss that next week.

[Senator Grosart.]

Senator Flynn: I am quite sure you will discuss it, but I am also quite sure that you will not find an answer. I would say to Senator Rowe that if he is a member of two committees and they happen to sit at the same time, the only solution is to give up one, or both.

Senator Bourget: As I said, we could help solve the problem by having one committee sit at, say, 9 a.m. or 9.30 a.m. and the other at 10.30 a.m., which would enable members to attend the first for at least one hour before going to the other.

Senator Flynn: A token appearance.

Senator Bourget: We could discuss this all afternoon, but I think we should leave the matter until our meeting next week.

Senator Perrault: Honourable senators, in view of the difficulty we have experienced in the past, I am sure that all of us understand that this committee is faced with acquiring the wisdom of Solomon in the matter of providing solutions to some of the time problems which exist here. I can report that in preliminary conversations with honourable senators good progress is being made, and I hope we can have at least most of the solution next week.

Senator Flynn: I hope they don't cut the baby in two.

• (1420)

Senator McElman: Honourable senators, since we are discussing the sitting hours of the Senate, it might be an appropriate time to ask the Leader of the Government if it is the intention of Parliament to recess on Wednesday afternoon of Holy Week. I realize this can only be a tentative plan, but it would enable some of us to make tentative arrangements to spend Easter with our families.

Senator Perrault: Honourable senators, bearing in mind the essential point that public interest must come first, it is hoped that the Senate will be in a position to adjourn for the Easter recess on April 14 or 15. This will also be the tentative adjournment date in the other place. The lively events of recent days in the other place suggest that that schedule could be altered.

Senator Flynn: That is no threat.

Motion agreed to.

PENITENTIARIES

PROPOSED CONSTRUCTION OF MEDIUM SECURITY PRISON IN SAINT JOHN—QUESTION

Senator Riley: Honourable senators, I direct a question to the Leader of the Government. What is the intention of the government with respect to the construction of a medium security penitentiary off the Martinon bypass in the city of Saint John?

Contrary to the wishes of a member of Parliament for the area, who is reflecting public opinion, and contrary to the appointed member of this house, who also endeavours to reflect public opinion, it would seem in the light of the recent statement by the Solicitor General that, irrespective of public opinion, it is a foregone conclusion that this medium security prison is going to be constructed in an

area which has been designed for future housing development in the city of Saint John.

I consider this a very serious matter and I question the motives of the government, through the Solicitor General, in proceeding with a decision of this nature contrary to public opinion and the public interest.

Senator Perrault: Honourable senators, the government is, of course, ever mindful of public attitudes in those areas where it is anticipated there will be a need for security establishments. Be that as it may, and because I have received no specific information from the office of the Solicitor General regarding plans for the area, I must take the question as notice, and hopefully I will have a reply next week.

STATUTE LAW (VETERANS AND RETURNED SOLDIERS' INSURANCE) AMENDMENT BILL, 1976

THIRD READING

Senator Carter moved third reading of Bill C-86, to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act.

Motion agreed to and bill read third time and passed.

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—MOTION FOR ADOPTION OF REPORT OF COMMITTEE—MOTION IN AMENDMENT—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Laird for the adoption of the Report of the Standing Senate Committee on Internal Economy, Budgets and Administration, which was presented on February 24, and on the motion in amendment thereto of Senator Côté, which was made yesterday.

Hon. Louis-J. Robichaud: Honourable senators, I am highly impressed with the attendance in the Senate at present. It is really excellent for a Thursday afternoon.

Senator Denis: It is because you had to speak.

Senator Robichaud: If I agreed to second the motion in amendment made by my friend, Senator Côté, it was not because we are either seat-mates or friends, but because I completely accept the arguments he put forward on his motion.

Senator Denis: When did he do that?

Senator Robichaud: Yesterday.

Senator Denis: I had forgotten.

Senator Flynn: What a misplaced question.

Senator Robichaud: I have said before, and I now repeat, that I believe in this institution, and I believe in the people of whom this institution is composed. When they were summoned to the Senate they were not summoned because of an inferior background; they were brought here because of their integrity and because it was believed they could make a contribution to Canadian society.

I believe in the integrity of all the members of this house, regardless of their political affiliation. If they had not been summoned here because of their integrity I would perhaps hesitate to do so, but that is not the case. However, this body has itself proposed a rule that would, I suggest, call into question the integrity of its members, and this I cannot accept.

The subject of this proposed rule is public and official business that would justify the absence of a senator. I do not feel that a senator who had the qualifications he was expected to possess before he came here, and who does possess those qualifications, should have to answer to any official of the Senate, or to any committee of the Senate, as to the nature of the official or public business upon which he has been engaged on any particular day, or for a certain number of days of any particular month.

I think there ought to be a certain discipline within our ranks, and I think there is such discipline, but I do not think it should be as rigid as this proposed rule would require. Neither do I think it should be as rigid as the kind of discipline I had to go through when I was in elementary school where, if I wanted to go to the toilet, I had to raise one finger; if I needed a drink of water, I had to raise two fingers; and if I wanted to change desks to ask a friend of mine in the same class for certain information, I had to raise three fingers.

Senator McIlraith: Did you ever get your signals crossed?

Senator Robichaud: That is what I had to do in those days, but I do not think we should be submitted to a similar type of regulation here. We should have confidence and faith in the membership of this house. I do not think that every time senators are absent on official or public business they should have to report the nature of the business or what happened while they were attending to it.

Are we getting to the point where, if a senator attends a convention in Winnipeg, Vancouver, Moncton or Sussex, he or she must report what meeting he or she attended, and state what hotel he or she stayed in? I do not believe in that. I believe in the integrity of senators. They should only have to report that their absence was caused by public or official business elsewhere, and that should be sufficient.

● (1430)

Having said that, honourable senators, I come back to the matter of the 21 days' absence, because if this motion in amendment is adopted I hope this matter will be considered by the committee. Twenty-one days' absence—that is meaningful in a way, but in the present circumstances it is meaningless. It is too strict. This session commenced in 1974. In 1976 we are still in the same session, and we still have only 21 days on which we can be absent without justification of some kind. I do not think that is fair. I think the committee should look into this matter, and I think further that the committee should extend this period of 21 days.

Furthermore, according to the report that was submitted to this house by our colleague, Senator Laird, on February 24, we have to report the reasons for, and other details connected with, our absence. But who is going to determine the validity of those reasons, honourable senators? Is it going to be an official of the Senate? Is it going to be a committee of the Senate? Then, what happens if the official refuses to accept the reasons given by the senator and

the matter comes before the committee, and the committee again questions the integrity of the senator? Has the senator come before the committee to justify his absence and to tell them, "I attended such-and-such a meeting; I stayed at such-and-such a hotel; I was on official business"? Really, I think this is stupid. I heard the word "ridiculous" used, but I say this is stupid. I believe in the integrity of the members of this house. I am not going to deny the fact that there is a percentage of senators who do not attend to their duties, but I will add that there is a much larger percentage of senators who do attend to their duties and I do not think their integrity should be questioned. I am speaking now of the majority of the people who are here today, and who will be here next Monday evening.

I want at this point, honourable senators, to come back just for a moment to the matter of committee meetings. It has already been discussed this afternoon, and everybody had a valid argument. I do not think it is quite a tragedy, but I do think it is completely unfair that some honourable senators should be called upon to attend two or three different meetings, all scheduled to meet in different places and at the same time. The situation that allows this to happen should be corrected.

I fully accept the idea that we should meet on Monday night, and that we should attend committee meetings all day on Tuesday and on Wednesday mornings, but I suggest we should arrange the business in such a way that no senator is called upon to attend two or three meetings at the same time.

Generally speaking, the majority of senators, even though some are not here this afternoon, are present when their presence counts most. To me, this is a very important factor, honourable senators. I think we are rendering a great service to the community, and I do not think we should suffer the discipline that would be imposed upon us by the suggestions made in the report presented by my friend, Senator Laird, and his committee.

Therefore, I support the motion made yesterday by my colleague, Senator Côté, that the report be referred back to the committee. Although I am not a member of that committee, I shall endeavour to be present when it meets to give further consideration to this matter.

Some Hon. Senators: Hear, hear.

Hon. John Morrow Godfrey: Honourable senators, I need hardly say that I am profoundly disappointed with the first paragraph of this report. I have already spoken twice at length in this chamber on this motion, and I also appeared before the committee—which was very well attended indeed, as Senator Laird pointed out—when it finally got around to discussing my motion in December. There is no point in beating a dead horse. I can only say that when I proposed this motion I sincerely believed that not only was it right and proper but also that if it had been adopted, with any improvements that other senators with their greater wisdom and experience might have suggested, the prestige of the Senate would have been greatly enhanced. The Senate would have set a fine example that would be much appreciated and approved by the public, particularly at this time. Alas, that is not to be, and I will say no more on that part of the report dealing with my motion.

[Senator Robichaud.]

When I was first appointed to the Senate, I was briefed by various officials. I was considerably surprised when I was informed that when a senator claimed an exemption from the penalty of $120 per day for being absent more than 21 days in a session because he was absent on public or official business, it was not necessary for that senator to specify the public or official business that caused his absence. This, of course, made it impossible for anyone, other than the absentee senator, to judge whether or not the activities responsible for his non-attendance properly qualified as public or official business. To me that was wrong and indefensible.

Senators should set an example and be above suspicion. The only way they can do so is by recognizing the obvious conflict of interest—and I underline "conflict of interest," because here I am not talking about integrity—and insisting that they make themselves subject to reasonable scrutiny by others when making a statement which results in financial benefit to themselves from the public treasury.

I am informed that in actual practice the vast majority of senators do specify the details of the public or official business that they have been engaged in when they are claiming an exemption from deduction for non-attendance.

On November 14, 1974, Mr. Hopkins gave the opinion referred to by Senator Laird as to the meaning of "public or official business," an opinion with which I might say I completely agree. As was pointed out by Senator Laird, this opinion was distributed to all honourable senators on December 10, 1974. Mr. Hopkins concluded his opinion by saying:

> Finally, I would think that in doubtful cases it should not be left exclusively to the officials of the Senate to determine whether or not the Senator has been away on "public or official business". Such doubtful cases should be referred to the Standing Senate Committee on Internal Economy, Budgets and Administration for decision or even possible reference to the Senate itself. Under this procedure a Senator would receive the judgment of his peers.

I assumed, with this opinion, it would automatically follow that senators would have to give details of the public or official business which caused their absence; otherwise, how could doubtful cases be resolved in the manner suggested? I might say that I talked to Mr. Dean at the time, and he presumed the same thing. However, no official action was taken by the Internal Economy Committee to follow up this logical and sensible step until several weeks ago. Now that they have done so, I am pleased that they have at least taken this one small step which will reform a practice that could in no way be justified, and could be subject to grave abuse.

● (1440)

I should like now to say a few words about Senator Côté's proposed amendment. First I would point out that it is constitutionally impossible for the Senate to follow exactly the same practice as the House of Commons. I remind Senator Côté that section 31 of the British North America Act provides:

> The Place of a Senator shall become vacant in any of the following Cases:

(1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate.

That is why the Senate must record attendance, otherwise it would be impossible to determine that a senator had not attended for two sessions. The situation is entirely different in the other place. There is no constitutional or other requirement that a member loses his seat for non-attendance. That is not to say that there is not a practical manner by which a member of the House of Commons may be retired for non-attendance. If a member is constantly absent from the House of Commons, and during his absence he is not engaged in public or official business, his constituents quickly get to know about it and they will no doubt take appropriate action to retire him at the next election.

Let us examine the procedure in the House of Commons. The member there each month signs a form, under oath, headed "Attendance". Senator Côté in his speech says:

> At the other place, the only proof required when a member has been absent, because of sickness, official business or "public function", is that he should fill in a form indicating the number of days he was away and sign it.

That is not strictly correct. In addition to filling in the form the member must swear an affidavit, verifying under oath that the statement is true and correct. If a member of the House of Commons lies about his attendance, he commits perjury. Personally, I would find it repugnant to require senators to sign an affidavit verifying they were away on public business, and thus make themselves liable to criminal prosecution if they happened to make an error.

What does the Commons attendance form provide? It starts off by saying:

> I was present at Ottawa and attended in my place at the House of Commons in each sitting day of the House (while the House was in session) during the month of ..... A.D. 19 ..... , with the exception of ..... days during the said month.

There is no necessity for that sentence in the Senate because our attendance is recorded.

The only other statement in this form, besides the oath and the formal identification parts, is the second sentence, which reads as follows:

> Of the said days of absence, ... were unavoidable, my absence on those days being due to illness or public or official business.

If we adopted that procedure, we would be taking a retrograde step. Under our present practice, the senator must at least identify the dates on which he was away on public or official business. If we eliminated even that requirement as proposed by Senator Côté, we would certainly be exposing ourselves to ridicule by the press and public. The Senate gets exposed to a lot of ill-informed and unjust criticism. Please let us avoid the justified criticism that would follow if we took a step backwards and adopted Senator Côté's amendment.

On motion of Senator Lafond, debate adjourned.

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—ORDER STANDS

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to the question of total free trade as an economic consideration for Canada.—(*Honourable Senator Grosart*).

Senator Grosart: Honourable senators, I regret to ask again that this Order of the Day be stood. As honourable senators are aware, I am not generally in favour of Orders of the Day being stood indefinitely. Therefore, if any other senator wishes to speak to this inquiry, I will certainly be glad to yield to him.

I repeat that the reason I have stood this item at several sittings of the Senate is that the matter will be under discussion by one of the committees of the Senate, and I believe it is advisable for me to make my comments on this inquiry after the evidence is heard by the committee.

Order stands.

The Senate adjourned until Monday, March 22, at 8 p.m.

THE SENATE

Monday, March 22, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Governor of the Bank of Canada, including statement of accounts certified by the auditors, for the year ended December 31, 1975, pursuant to section 26(3) of the Bank of Canada Act, Chapter B-2, R.S.C., 1970.

Report of the Department of the Solicitor General for the fiscal year ended March 31, 1975, pursuant to section 5 of the Department of the Solicitor General Act, Chapter S-12, R.S.C., 1970.

Copies of Report of the Commission of Inquiry relating to public complaints, internal discipline and grievance procedure within the Royal Canadian Mounted Police, dated January 16, 1976 (His Honour Judge René J. Marin, Chairman), established under the authority of the Solicitor General of Canada, pursuant to Order in Council P.C. 1974-1338 as amended by Order in Council P.C. 1974-2415.

Copies of "Statistical Handbook—Selected Aspects of Criminal Justice", dated March 8, 1976, issued by the Department of the Solicitor General.

Copies of Questions and Answers relating to the Capital Punishment Issue, dated March 1976, prepared by the Department of the Solicitor General.

Copies of Statistics relating to the Gun Control Question, dated March 1976, issued by the Department of the Solicitor General.

ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until tomorrow, Tuesday, March 23, 1976, at 8 o'oclock in the evening.

Motion agreed to.

ADMINISTRATION OF JUSTICE

RESIGNATION OF MINISTER OF CONSUMER AND CORPORATE AFFAIRS—SUPPLEMENTARY QUESTION

Senator Flynn: Honourable senators, I should like to put a question to the Leader of the Government in relation to the reply he gave last Tuesday when I asked him why the Prime Minister had accepted the resignation of the Minister of Consumer and Corporate Affairs and had refused to accept the resignation of the Minister of Public Works two days before.

The Leader of the Government, as reported at page 1891 of *Hansard*, said, "We have had three cases of alleged impropriety." A little later on he said, "improprieties, yes, but illegalities, no." I wish to ask the leader on what grounds he bases his affirmation that there was no illegality in connection with these cases?

Senator Perrault: Honourable senators, I simply used the words "illegalities, no" because of the findings of the Chief Justice of the Superior Court of Quebec, who pointed out that there had been no illegality at all.

With regard to the earlier question asked as to why one resignation was accepted—

Senator Flynn: I am not coming back to that.

Senator Perrault: —that is simply a discretionary matter decided by the Prime Minister. It was a decision made by the Prime Minister. Simply, there really have been no accusations of illegality levelled by anyone, either in the other place or in this chamber, and if the Leader of the Opposition wishes to make a charge here this evening we urge him to do so by all means, if he has a specific allegation to make.

Senator Flynn: I thought the answer would be the one given. The Leader of the Government has said repeatedly in this house—as has the Prime Minister in the other place—that there was no illegality. I asked on what basis they asserted that. Was it on the basis of the opinion given by the Minister of Justice? Chief Justice Deschênes was not even asked to state whether or not there had been illegalities. He was asked to report on the reaction of the judges involved.

I ask the Leader of the Government to come clean and tell me if an opinion has been given by anyone to the effect that there were no illegalities involved in all these matters.

Senator Perrault: The report of the Chief Justice was tabled in the other place. The basis for my remarks is to be found in the report of the Chief Justice of the Superior Court of Quebec. Nothing in the report of the Chief Justice suggested any illegality. The report suggested that there were indiscretions.

It is very difficult for some of us to understand—

Senator Flynn: That's obvious.

Senator Perrault: —that if in fact illegalities were committed, why the justices of the Quebec Superior Court did not report these matters five or six years ago, or even a number of weeks ago in the case of the latest alleged impropriety.

Senator Flynn: Come clean.

Senator Perrault: There have been no accusations of illegality by any elected member in the other place, or by

anyone in this chamber, or by anyone associated with the Judiciary.

Senator Flynn: I did not say there had been.

Senator Perrault: I fail to understand what the honourable senator is attempting to determine this evening. Is he suggesting that we have a public inquiry to enable the Opposition to go on a fishing expedition for red herring? Is that his suggestion?

Senator Flynn: No.

An Hon. Senator: I guess there is one over there now.

Senator Flynn: I am merely asking the Leader of the Government if he himself claims there was no illegality. It was his assertion last week that there had been none, and I am wondering what his basis was for that assertion. It cannot be the report of Chief Justice Deschênes, because he was not asked to look into that aspect of it.

I am wondering whether the Leader of the Government bases his assertion on an opinion of the Minister of Justice, or of the Solicitor General. On what precise basis does he make that assertion?

We on this side never asserted that there had been any illegality. It was the Leader of the Government who asserted that there had been none, and I am simply asking for an explanation of that assertion. On what basis do you make that assertion?

Senator Perrault: On the basis of every conceivable piece of available evidence—the report of the Chief Justice of the Quebec Superior Court—

Senator Flynn: No, don't give me that Chief Justice report stuff.

Senator Perrault: —and the significant lack of any accusation on the part of anyone in public life in this country of illegalities. None of the justices involved, for example—and bear in mind that the Chief Justice asked for a detailed report from three distinguished members of the Judiciary of the Superior Court in the province of Quebec—suggested that there was any illegality. Not one of the justices involved suggested any illegality, and I know that the honourable senator has great respect for the Quebec Judiciary.

Senator Goldenberg: May I ask a supplementary question?

Senator Flynn: I will bet it's not meant to be of any assistance to me.

Senator Goldenberg: I wonder if I might ask the Leader of the Government whether it is not a fact that the Minister of Justice said in the other place that he had a report from the law officers of the Crown to the effect that there was no illegality committed?

Senator Perrault: Yes, of course, and I reported that in my remarks on this matter in the chamber.

Senator Flynn: Not so.

Senator Perrault: The Prime Minister and the government have sought out the opinions of the law officers of the Crown, and there is no basis for any kind of action at all. There were no illegalities. There may have been improprieties. This appears to be the case in one or two of the instances, but there have been no illegalities.

An Hon. Senator: Just a human mistake.

Senator Flynn: To correct Senator Goldenberg's statement, the Minister of Justice said in the other place that there was no illegality committed, but he never said that he sought the advice of the officials of the Department of Justice in that respect.

If that is the opinion of the Minister of Justice, would the Leader of the Government not agree that it is the opinion of one who is, at the same time, judge and party? Under those circumstances, I would like to have an independent opinion. We cannot expect the Minister of Justice to accuse his Cabinet colleagues of illegalities.

Senator Langlois: Are you doubting the word of the Minister of Justice? If so, say so clearly.

Senator Flynn: I have read his remarks. Just look at the record and stop grumbling.

Senator Langlois: For once, come out clean.

Senator Flynn: I am coming out clean. I don't care whether you feel I am or not. And you had better remain seated.

Senator Langlois: Is that an order?

Senator Fournier (de Lanaudière): He can speak as a senator.

Senator Flynn: I speak as a senator to you, too.

Senator Fournier (de Lanaudière): Would you like my hand?

Senator Flynn: I was hoping you would intervene, because I'm sure you will end up putting your foot in your mouth.

Senator Fournier (de Lanaudière): This whole thing is just a quarrel of words.

● (2010)

Senator Flynn: Are you replying instead of your leader now?

Senator Fournier (de Lanaudière): I am not finished.

Senator Flynn: What are you doing now?

Senator Fournier (de Lanaudière): If you want me to explain—

Senator Flynn: You can ask a question but you cannot reply for the Leader of the Government.

Senator Bourget: I think this is all out of order.

Senator Fournier (de Lanaudière): We are lucky to have the rules.

Senator Flynn: Indeed.

Senator Perrault: Honourable senators, only one senator may occupy the floor at a time. May I just repeat again that after receiving Chief Justice Deschênes' report, the government then consulted with the law officers of the Crown, which governments do from time to time. When the honourable senator served in a previous government—

Senator Flynn: I have heard that one before.

Senator Perrault: —this was a procedure followed by his Cabinet colleagues.

An opinion was sought as to whether there was illegality involved in the actions of the three ministers and, indeed, one of them was not even a minister at the time of this alleged impropriety.

Senator Flynn: I am not saying that.

Senator Perrault: The law officers of the Crown said there was no basis for any action because no illegality had been committed. I think, on the basis of that opinion, the Prime Minister has quite properly stated that it is not the intention to take further action unless allegations are made of a specific nature in Parliament. They can be made here. For example, if the Leader of the Opposition wishes to make a specific allegation against any of the three named individuals in this controversy—

Senator Asselin: That's the same story.

Senator Perrault: —then he may wish to proceed to do so.

Senator Asselin: That's the same story.

Senator Perrault: Until specific allegations are made here or in the other place, the government believes it acted entirely properly.

Senator Flynn: If the Leader of the Government is right in saying that an opinion was sought of the officials of the Department of Justice, or the Department of the Attorney General, would he care to table that opinion?

Senator Perrault: If it will help to remove any of the doubts which exist in the mind—

Senator Flynn: Yes.

Senator Perrault: —of the Leader of the Opposition, for some reason which is not immediately apparent to me, I will certainly make some inquiries about what may or may not be made public in that connection.

Senator Flynn: Thank you.

Senator Perrault: Senator, I believe I did use the words "no illegality" in a very proper and accurate sense the other day.

Senator Flynn: If you care to table the opinion, fine.

Senator Croll: I believe the honourable senator knows that normally he does not—

Senator Asselin: Is this on a point of order?

Senator Croll: It is not normal to make opinions of the Department of Justice known, or put on the record. It is not the practice to do that. It is not normal to do that and, therefore, it is not done.

Senator Flynn: Why does the honourable senator intervene at this time, when his leader has already said that he will try to see whether he can produce the opinion? This is an interesting question for Parliament to consider.

Senator Croll: He is not a lawyer and does not quite understand. You are a lawyer, and you know better than that. He is attempting to help you out in some way by offering to give you something to which you are not entitled.

Senator Flynn: I am certainly entitled to this.

[Senator Flynn.]

Senator Perrault: Honourable senators, this is an unusually heated start for our week's deliberations. I gave no commitment that I would produce any report. I said I would attempt to determine that material which could be made available to the honourable Leader of the Opposition. I think that is an opinion which can be delivered by a person whether or not he is a member of the Bar.

Senator Flynn: I accept that.

Senator Forsey: I would like to ask the Leader of the Government a supplementary question. I notice that he has repeatedly used the phrase "alleged improprieties." I thought there was no question that improprieties had been committed. I have read the debates in the other place and it seemed to me that everybody concerned admitted there were improprieties, though not illegalities.

I was a little startled to hear the Leader of the Government say "alleged improprieties." It seemed to me quite clear from the report of the Chief Justice, from the admissions of ministers in the other place, that improprieties—grave or otherwise—had been committed. So I am a little uneasy that the Leader of the Government in this house should keep using this word "alleged."

Senator Perrault: Surely this is a matter of semantics. They may be described as improprieties or indiscretions. However one wishes to describe these actions, surely it is a matter of terminology.

Senator Flynn: Very good!

TRANSPORTATION

TRANS-CANADA HIGHWAY—MAINTENANCE COST SUBSIDIES FOR NEWFOUNDLAND AND PRINCE EDWARD ISLAND—QUESTION ANSWERED

Senator Perrault: Honourable senators, on March 17, Senator Bonnell asked whether the Government of Canada would grant maintenance cost subsidies to the provinces of Newfoundland and Prince Edward Island to pay for the extra maintenance costs of the trans-Canada highway, because the rail service has been discontinued there and because the rail traffic is now being handled on the highway.

The CNR has not in fact filed to the CTC for the abandonment of these rail services on either Prince Edward Island or Newfoundland. These rail services are not being discontinued.

PENITENTIARIES

PROPOSED CONSTRUCTION OF MEDIUM SECURITY PRISON IN SAINT JOHN—QUESTION ANSWERED

Senator Perrault: Honourable senators, on March 18, Senator Riley asked the following question:

> What is the intention of the government with respect to the construction of a medium security penitentiary off the Martinon bypass in the City of Saint John?

The information made available to me is as follows: Although there have been petitions which are opposed to the construction of a prison in the Saint John area, there have also been petitions in favour of this decision.

The final decision in all of these cases is based on the approval of the local civic government. In this case, on second reading the local government voted nine to four in favour of the prison. The final vote was taken on February 9, 1976, and this time the vote was nine to two in favour of the decision. This decision is not irrespective of public opinion but rather reflects public opinion in terms of the city council's vote. As far as the area being considered for future housing, the city council approved of a zoning change to allow for construction of the prison. It may be worth noting that the Solicitor General of Canada spoke on an "open line" show in New Brunswick on March 12. Although there was criticism about the prison, much of the criticism was directed at the makeup of the local council and not at federal officials.

I understand that the police chief of Saint John has come out in favour of this decision, although the police association is opposed to the decision.

In any case, the government intends to construct this medium security institution off the Martinon bypass in the city of Saint John. This decision was reached after consultation with the Regional Advisory Committee and New Brunswick officials and after having obtained sufficient public support to permit the city council to approve the institution and the necessary zoning changes.

Because of the requirement for a medium security institution in the Maritimes and because statistics indicate that sufficient inmates come from the Saint John area, a decision was made to conduct a search for suitable sites in the area. The Department of Public Works and penitentiary service representatives, in conjunction with city officials, located a suitable site on property controlled by the city near Green and Ferguson lakes. This site was selected because the surrounding vacant land and lakes will provide a suitable buffer zone from the nearest community. The site is approximately ten miles from the city centre and approximately two miles from the nearest resident of the community of Martinon.

● (2020)

When the site was identified the city council advised the Canadian Penitentiary Service that before council would approve the institution and zoning change, public input and sufficient public acceptance would be necessary. This would be the responsibility of the Canadian Penitentiary Service. These terms were publicly stated by Mayor Flewelling in reply to an unofficial announcement of the proposal.

As a result of this announcement, petitions opposing construction on the Green Lake site were received from residents of Martinon and a local wildlife association. Although aware of the petitions, the city council, on August 28, 1975, approved in principle the construction of an institution within the city limits and invited the Canadian Penitentiary Service to discuss location.

In October 1975, a formal request was made by the Canadian Penitentiary Service to the city for the transfer of land. This formal request permitted the council to arrange a public information meeting to ascertain public reaction. At this meeting, representatives of the Canadian Penitentiary Service made a presentation to the residents of Saint John to obtain necessary support. This was followed by a presentation by Mr. Sheehan, Director of Dorchester Institution, to the District Labour Council. To obtain further community input, Mr. Sheehan conducted an open line radio program.

Honourable senators, I apologize for this rather unusually lengthy reply.

Senator Flynn: Oh, oh.

Senator Perrault: As a result of the public response and general acceptance, the council of the City of Saint John tabled the motion for the construction of an institution and obtained formal approval on February 9, 1976. Upon receipt of the council's approval, the Department of Public Works began negotiations with the City of Saint John for the acquisition of the site and necessary rights of way.

Honourable senators, this is all of the material I am able to produce at this time.

Senator Flynn: And it is quite enough, too.

Senator Riley: Honourable senators, I should like to put to the Leader of the Government a supplementary question. He said that the chief of police of Saint John had approved the construction of this institution at the particular location that he mentioned. However, he glossed over—and indeed I ask him if he did not gloss over—the fact that the police association of Saint John did not want it there, any more than all the people in the area concerned?

Senator Perrault: Honourable senators, I did give that information. I said that the police association was opposed to the decision. But I am really unable to provide any more enlightenment on the subject now. I have provided what I consider to be an unusually long and detailed reply to the question.

Senator Asselin: You had better send a copy to the honourable senator.

TRANSPORTATION

CANADIAN NATIONAL RAILWAYS—SERVICES IN ATLANTIC PROVINCES—QUESTIONS

Senator Rowe: Honourable senators, I have a question for the Leader of the Government arising from the answer he gave to Senator Bonnell's question of March 17. Senator Bonnell is not here this evening, but I am sure that, since we discussed the matter earlier, he would want to have this question asked.

I appreciate that the leader has given us information which has been supplied to him. Obviously he is not in a position to answer all questions in detail, and the information has to be obtained from the appropriate departments of government. In this case I presume it was the Ministry of Transport. The statement was made that there has been no request for a subsidy in respect of the Canadian National Railways in Newfoundland because the CNR has not abandoned its railway services in that province.

Is the government, and particularly the department concerned, not aware that some seven or eight years ago the CNR abandoned completely the passenger rail service between St. John's and Port aux Basques, a distance of 550 miles, and substituted a bus service? As a consequence, the passenger traffic which would ordinarily be carried by the rail service is now being carried over the one and only trans-insular highway in Newfoundland, namely, the

trans-Canada highway, between St. John's and Port aux Basques. This has added immeasurably to the burden, the pressure, the weight, the volume, of traffic using the trans-Canada highway in Newfoundland.

I have to suggest to the Leader of the Government that the answer given to him by the Ministry of Transport, or by somebody, is misleading, when it says that the CNR has not abandoned its rail service in Newfoundland. It has not abandoned its freight service, but it has abandoned 100 per cent its passenger service. So that answer, given to the Leader of the Government, is incomplete and misleading.

Senator Perrault: Honourable senators, the original question asked by Senator Bonnell did not make reference to passenger rail services or freight rail services. It just simply made mention of "rail service." The question was:

> Would the Leader of the Government permit a supplementary question? Would he ascertain whether it is the intention of the Government of Canada to grant maintenance cost subsidies to the provinces of Newfoundland and Prince Edward Island, where rail service has been discontinued, in order to help pay for the extra maintenance costs of the trans-Canada highway in those two provinces . . .

The answer simply states that the CNR has not filed with the CTC for the abandonment of these services. If the honourable senator is referring to the discontinuance a few years ago of the so-called and quaintly named *Newfie Bullet*, that is certainly known to all senators, and certainly to the CNR. But we are really discussing whether there will be further line abandonment. Presumably the understanding of the CNR when approaching the question posed by the honourable senator, was the belief that the honourable senator was asking about freight services in Newfoundland and whether this service was to be closed down. The reply, in essence, is, "These rail services are not being discontinued."

Senator Forsey: Honourable senators, would the Leader of the Government give us a little more light on the question which was asked by Senator Duggan? I know that there was a reply to it the other day, but it seems to me to be quite clear that the main point, as I understood it, raised by Senator Duggan was that now these bus fares might go up and, according to the reply he got, would not be looked after by some subsidies such as would have been available for the railway. This is rather a serious matter for people who are using the bus passenger service across Newfoundland. I think this is the nub, as I understand it, of Senator Duggan's question and I don't think we really had a thoroughly satisfactory answer to it.

Senator Perrault: Well, honourable senators, the entire question of the cost of transportation and the rationalization of transportation and all these matters are under continuing review by the government. Costs appear to be rising everywhere. I understand that on the west coast an announcement is pending about an increase in ferry passenger fares. I would think that it would be most unusual if during a period of galloping inflation although, encouragingly, because of the restraints program, the inflationary process is being modified somewhat, we did not have an advancement in certain transportation fares in this country, whether on the east coast, the west cost or in central Canada. But every effort is being made by the government to make certain that these fare increases, if in fact they occur, do not work an inordinate hardship on those least able to pay.

Senator Macdonald: Honourable senators, might I ask the Leader of the Government if he would make inquiries to ascertain if it is the intention of the CNR to abandon the rail passenger service between Sydney and Truro and to substitute a bus service?

Senator Perrault: I shall take that question as notice, and I hope to have a reply tomorrow evening.

Senator Riley: Honourable senators, I would like to ask another question with respect to Prince Edward Island. Canadian National Railways got a motor transport licence for all highways in New Brunswick through Canadian National Transportation. Since there seems to be a great deal of feeling on Prince Edward Island that that is a move toward the abandonment not only of passenger services but also of rail service, could the Leader of the Government find out from the Canadian National Railways whether it is their intention to apply to CTC to abandon all rail services on Prince Edward Island?

Senator Perrault: Honourable senators, I must take that question as notice, but I want to assure Senator Riley that the Government of Canada is deeply aware of its historical commitment to the people of our great Atlantic provinces with respect to transportation in that area.

● (2030)

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—SECOND READING—DEBATE ADJOURNED

Senator Molgat moved second reading of Bill S-33, respecting United Grain Growers Limited.

He said: I trust, honourable senators, that my subject will not bring out red herrings, because they are not very common on the Prairies. I am really dealing with a basic Prairie question—the subject of grain.

I am particularly pleased to present this bill, for two basic reasons. The first is that United Grain Growers is a very old, respectable and honourable company, which was organized in the very early days—as a matter of fact, back in 1902—by an act of the Manitoba Legislature. It was subsequently recognized and incorporated by the Senate and the House of Commons in 1911 under the then name of the Grain Growers Company Limited.

This was a movement by grain growers themselves in Western Canada to take hold of their own grain merchandising operations. They were then unhappy by reason of what they viewed as the cartels, the big corporations, and decided to take this into their own hands and establish their own company.

The second reason I am particularly pleased to present this bill is that one of our former colleagues,—no longer here, but certainly well known to many who are here—the late Honourable Tom Crerar, was the first president of the then Grain Growers Company Limited, a name which was subsequently changed by this chamber to United Grain Growers Limited. Tom Crerar, that great western leader whom I am sure many of you knew intimately, was one of

those men who headed the group who developed this small company into a major western corporation. Today, United Grain Growers Limited, under the leadership of its president, Mr. A. M. Runciman—known as "Mac" to those of us who deal with him—has been doing a tremendous job in western Canada for grain growers.

Throughout the years, other grain organizations—call them cooperatives, if you will, or growers' organizations—such as Manitoba Pool Elevators, Saskatchewan Pool Elevators and Alberta Pool Elevators, have developed. In all of this there has been a spirit of friendly competition between these various groups. Evident throughout these developments, however, has been a desire, and certainly a basic structure, to assist the grain growers of Western Canada. Therefore, this legislation before us today is simply a continuation of a number of bills which have been before us in past times, before I came here, all indicating the growth of this particular company and the need for further capital expansion.

Basically, the bill requests an increase in the capital structure of the company to $25 million from the present base. This is simply indicative of the growth and expansion of United Grain Growers Limited. In my opinion, it is a credit to the management of the company and its shareholders. I strongly encourage the passage of this bill, because it indicates once again that those who are prepared to do something for themselves and work to that end can grow in this country and, certainly, United Grain Growers Limited has done exactly that.

Hon. Senators: Hear, hear.

Senator Paterson: May I ask the honourable senator a question? Is United Grain Growers purely and simply a farmer-owned company?

Senator Molgat: Yes, Senator Paterson, United Grain Growers is completely owned by the farmers who deal with the company, who sell to the company and who control the company in its totality. United Grain Growers at this stage is operating basically in the three Prairie provinces. The shareholders come from the areas in which the company has elevators, and they control it completely. It is a shareholder concern and, all the shareholders being farmers, it is owned by the growers.

Senator Grosart: I wonder if I may ask Senator Molgat, the sponsor of this bill, if he can offer a little more information? If I may say so, his explanation seemed rather thin in view of the fact that in this amending bill the company is requesting a doubling of its share capital, and extensive changes in its dividend rights. Can the honourable senator inform us of the reason for the requirement for additional capital, for what it will be used, and by whom it will be subscribed?

Secondly, what are the essential changes in the dividend rights? We see in the explanatory note that there will be a rate of three per cent, which will be in addition to five per cent. Perhaps Senator Molgat will tell us what dividends have been issued in the past, so that we will have a clearer picture of what is being requested in this petition.

Senator Molgat: Senator Grosart, I wish I could give you more detailed information. Unfortunately I am not a grain grower although I am a westerner. However, it is my belief that Mr. Runciman, the president of the company, will be available to appear before our committee to answer those specific questions. In general terms, the shareholdings are strictly those held by farmers or grain growers themselves, so all dividends accrue to grain growers and not to anyone else. There is no possibility in this case of an outsider who is not a grain grower obtaining dividends from the corporation, so all benefits will accrue directly to grain growers. I am sorry I cannot respond to the question as to the percentage.

On motion of Senator Macdonald, debate adjourned.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for the second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Lang*).

Hon. George McIlraith: Honourable senators, Senator Lang adjourned the debate on this motion. He is not present tonight, and I do not believe he will be present. In that circumstance, I ask permission to speak now.

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

Hon. Senators: Agreed.

Senator McIlraith: Thank you, honourable senators, for your courtesy. I wish to make a few brief remarks in connection with this apparently simple bill dealing with two very important subjects.

I have said that the bill is apparently simple, but I find it to be very complex and, indeed, difficult to assess fully in its implications. It deals with two subjects, as represented by the minister proposing the bill in the other place, one of which is the periodical press, and the other, of course, is the broadcasting media—the permitting of Canadian advertisers to use foreign broadcasting stations to transmit advertising messages to other Canadians.

● (2040)

These are complex subjects, and the bill does not appear to deal with them directly. It deals with them in only an indirect way. Indeed, it attempts to deal with them in a simplistic way. In my view, it is wholly ineffective in achieving its purpose in relation to those two subjects. What is worse—and this is important—the bill, in my view, is harmful to a great many innocent Canadians, and is dangerous as a legislative precedent.

The bill is sometimes represented as a tax measure. Indeed, it comes to us in the form of a bill to amend the Income Tax Act but, in point of fact, it is clear, when we examine the subject and its implications, that it is nothing of the sort. My authority for saying that is found in the language of the minister when proposing the bill in the other place. While I do not wish to quote at length from his speech, although I am tempted to do so, it is interesting to note that in explaining the legislation the minister chose a format that set out in eight numbered paragraphs certain things which the government does not want, and these can be found in *Hansard* of the House of Commons, May 8,

1975, at pages 5592 and 5593. Of those eight matters which the government seeks to abolish by this legislation, six have no reference, directly or indirectly, to anything relating to taxation. The other two, which do make reference to taxation in some form, make reference only by way of an implied intention to help the Canadian periodical industry as a competitor with the foreign periodical industry.

Not content with that, the minister, after setting out the negatives, set out the positives—what the government wanted. In this connection, he had four numbered paragraphs. None of those positives make reference to anything related to taxation. I could quote them at length, but they are in the *Hansard* and I have given the reference. It is interesting to bear that in mind because, in dealing with the subject—and I believe it to be a very important subject—we must deal with it for what it is, and not the superficial format of the legislation on the subject.

I should say at once that it is clear, throughout the whole of the minister's presentation, that the measure was put forward as being designed to assist the magazine industry in Canada, and to deal with the use by Canadian advertisers of the broadcasting media operated in another country to reach Canadian customers. Presumably the latter part of the proposition is intended to help Canadian broadcasters exploit the monopolies assigned by the regulatory authority—and, by the nature of the operation, there must be monopolies in a certain context—to their own greater financial advantage, presumably by giving them a competitive advantage. I have no quarrel with any attempt to help Canadian broadcasters develop their potential capacity.

I shall try not to repeat points raised by other honourable senators. I heard the speeches, and I have read them carefully. I am sorry that Senator Davey is not in his seat tonight. I read his speech a couple of times, in addition to hearing it. I hope that in my remarks I shall not repeat any of the arguments already advanced.

Senator Asselin: But you do favour the bill?

Senator McIlraith: I do not favour the bill, but I do favour an attempt by government to deal with the unfairness it is alleged the bill will overcome. Perhaps I can develop that in my remarks.

I should like to deal with the points separately. I shall deal first with the press, and then with the broadcasting aspect of the bill. The most effective way of controlling competition faced by Canadian periodicals is, in my view, a more direct form of legislation. I have always felt that one of the ways of controlling a company is through ownership of that company. The bill seeks to provide that a foreign periodical shall be so considered, unless, among other things—there are several other things mentioned—it be 75 per cent owned by Canadians. I have no quarrel with that principle since I believe in Canadian control of cultural matters, and it may be important that we retain control of, or develop, a strong Canadian media. Therefore, I have no quarrel with any attempt to control ownership of the media in order that we might have presented a Canadian point of view.

However, I note in the bill that the requirement for ownership is 75 per cent. I am inclined to think that that aspect did not receive specific attention, but was merely a consequence of legislation passed some 10 or 12 years ago.

[Senator McIlraith.]

At that time, a 75 per cent ownership requirement was instituted to deal with another problem—that of new media coming into Canada—whereas the problem alleged to be dealt with by this bill concerns media which have been well established in Canada over a number of years and, in terms of efficiency of operation and so on, have been well operated.

Whether that Canadian control should be 55 per cent or 75 per cent is not particularly important. I merely raise it as being perhaps unreasonably high in relation to some of the media that is shut out by the provisions of this bill. I refer to such magazines as *MD of Canada*, to which I will make further reference later—magazines, the content of which is wholly Canadian or almost wholly Canadian, or as close to being wholly Canadian as it can be.

● (2050)

The editorial staff of *MD* of *Canada* is all Canadian; its editorial work is all done in Canada. It is as Canadian as it can be, except on the point of ownership. In this case, there is a difficulty in that respect. The owners of this monthly periodical—this magazine whose content is Canadian and whose editors are Canadian—are willing to sell to Canadians, but Canadian ownership cannot be achieved for the simple reason that no Canadian or group of Canadians will buy it, the reason for which must be obvious to everyone. It is a magazine distributed, without charge, to some 30,000 doctors. Because of its circulation, it is not the kind of advertising medium for which advertisers pay high fees. When advertisers do not pay high fees there is no big profit; when there is no profit, buyers do not buy.

For the life of me, I do not understand why we want to throw a magazine such as that out of Canada when it is obvious that Canadian ownership cannot be achieved, and when there is no reasonable prospect of any other company in Canada putting out a publication of that type. It is a magazine which serves a useful purpose, and it is in our interest to keep it in Canada. I do not know of any magazine that is as Canadian as *MD of Canada*.

There is another method of controlling competition in the Canadian magazine field flowing as a consequence from Bill C-58, that being the definition in the Income Tax Act of a Canadian periodical. That definition is worded in a rather curious way. It related to content, and provides that a Canadian periodical does not include—and honourable senators will notice that it is put in the form of a negative—"a periodical the contents of which are substantially the same as the contents of a periodical published outside Canada." It must be "not substantially the same as".

A magazine can be wholly Canadian-owned with a wholly Canadian editorial staff, with all of the articles written by Canadians, but if it is substantially the same as any periodical published outside Canada it is to be considered a non-Canadian publication. That is a most curious provision and a most curious approach to the problem with which we are concerned, which is to help the Canadian periodical press to compete with the foreign press.

Of course, the expression "substantially the same as" can be interpreted by two methods—at least, I knew of only two methods, but I now have my doubts. I am revising my opinion somewhat on that. I thought the only two methods of interpreting that expression were by judicial interpreta-

tion—and there is quite a bit of law to be found on that—or legislative definition, either of which is effective. I do not have the temerity to define that phrase by the judicial interpretation method, a fact that will please honourable senators because of the time involved. We do not have a legislative definition, of course, but let me read what the minister had to say on that subject when presenting Bill C-58 in the other place. I refer honourable senators to *House of Commons Debates* of May 8, 1975, page 5594, where the minister said:

> I should like to make it quite clear that there is no intention of introducing, in connection with the proposed amendments, a new Canadian content rule or a new formula for measuring how substantially a magazine published in Canada must be different from another published abroad in order to qualify for the benefits of section 19 of the Income Tax Act. Such a criterion has been part of the taxation law since 1965; it is not new and it is not unique. All periodicals published in Canada are bound by the "not substantially the same" clause in section 19 and have been for nearly ten years.

As I say, I thought there were two methods of dealing with that. The minister, in referring to the periodical press in introducing Bill C-58 in the other place, was referring to *Time* and *Reader's Digest*; he was not referring to the other publications, one of which I mentioned a moment ago.

In looking at this particular legislation, the situation was that "not substantially the same as" was being interpreted as 40 per cent the same as, and then it was increased to 50 per cent. I do not know what is meant by "not substantially the same as." I suppose what is meant is that it would have to be something other than just a token difference. That point can be argued at length. Certainly, there would have to be something more than a difference of 5 per cent, or something of that sort.

But what happened? I would ask honourable senators to bear in mind the minister's statement in presenting Bill C-58 to the Parliament of Canada. Suddenly, there were negotiations with those two publications, one of which, *Time*, tried to meet the criteria. I have some difference of opinion over *Time's* treatment of this house in assuming that the matter was ended when Bill C-58 passed the other place; one can attribute that to arrogance or ignorance. In either case, as far as I am concerned, it was totally unsatisfactory to me as a Canadian.

Getting back to the point at hand, *Time*, as a Canadian corporate taxpayer operating in Canada for some decades, sought to meet the criteria as set out in both the legislation and the minister's statement. Apparently, it was in the process of meeting those criteria—

Senator Asselin: *Time* tried to meet the criteria before the bill passed the other place.

Senator McIlraith: Yes, that is right, probably relying on the minister's statement. It was apparently able to meet the ownership criterion quite successfully. It was in the process of coming up with a format to meet the content criterion that I have referred to, the 50 per cent Canadian content rule—that was the interpretation put on it—and it apparently had met it when it was then told that 50 per cent Canadian content was not satisfactory. Having met all of the criteria that were supposedly in the bill, *Time* was then told that it was not satisfactory. Suddenly, the Department of National Revenue was interpreting that clause as meaning that it must be 80 per cent "not substantially the same as."

Well, then what do you do? Do you try by litigation to get rid of that interpretation, or what do you do? In that respect, I have a lot of sympathy with the officials of *Time* Canada. They made their choice—a choice I do not like but, nonetheless, they made it.

I wonder, honourable senators, who made the decision to raise the Canadian content rule from 50 per cent to 80 per cent in the arbitrary way in which it was done? Do any of you know the particular tax official or bureaucrat who effectively made that decision? I hope none of us knows. I certainly do not, and it would not be proper if we did know. He is not directly answerable to any authority. We must assume it was a ministerial decision and, of course, the minister is answerable for it. It seems to me to be an unsatisfactory way of dealing with an important subject.

● (2100)

I am one of those who believes in a free press. I believe that such decisions made in such a manner, affecting a substantial part of our press, is an interference with the freedom of the press to deal with a subject that is vital to all of us and to our liberties.

I want to take the trouble, if I may, to read from page 3 of Volume I of the report of the Special Senate Committee on Mass Media:

> Though it will be apparent to those who read its pages that this is a pre-eminently Canadian document, we make no apology for beginning with a statement by a distinguished American jurist, Justice Hugo Black, in a case involving the right of newspapers to news, wrote that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public . . . a free press is a condition of a free society."

By the way, that remark is taken from a United States Supreme Court case in 1944. Here is what the Senate Committee said about that:

> This notion is basic to our idea of a free society.

I share those views. However, I find myself terribly concerned with the freedom of the press and of the media. If it is possible for someone, however identified or unidentified, to arbitrarily change a ruling of such vital significance on content—dealing with the definition of Canadian periodicals and foreign periodicals—from 50 per cent to 80 per cent, I find that method not satisfactory to me as a free Canadian. It is not satisfactory to me, and I ask if it is satisfactory to you.

For reasons that are not very clear to many of us, *Reader's Digest* is reputed to have met the criteria I have been dealing with. If we know so very little about how it has met the criteria, is that the kind of use of the content provisions of the statutory definition of what constitutes a Canadian periodical we would like? Is that satisfactory?

Is it capable of being used by some other government at some later date as a form of censorship without answerability? Will the bureaucracy be able to exclude a magazine that it does not like or, conversely, permit a periodical that

fails to meet the prescribed criteria to remain? This is a question we must ask ourselves.

I respectfully submit that it is not a proper way to legislate on a subject as important and vital as this, and that the government and Parliament can find a much fairer and more direct form of legislation—that is, fairer to the Canadian readers, who I think are important; fairer to Canadian advertisers, who I think are important; fairer to businesses operating in this country, to publishers of periodicals and advertisers who use them, and consumers who buy the products being advertised. Advertisers have a habit of only buying advertising where it is advantageous for them to buy, which enables them to sell more of their products. We should remember it is Canadian advertisers with whom we are dealing here. The advertisers are selling their product to Canadian consumers. Presumably it is a help to Canadian consumers, but if manufacturers market their products well, that is helpful in providing employment in a period when the economy of this country requires more employment from the private sector.

Senator Asselin: Hear, hear.

Senator McIlraith: I am puzzled as to why this method of punishing Canadian advertisers should be used to deal with a problem that has to do with assisting the Canadian periodical press. I would like to assist it, but to me this method is not a fair or satisfactory way of doing it.

I should like now to deal with the broadcasting aspect of the bill, and its implications in that respect. The Toronto area seems to get all the news attention in this regard. Perhaps that is by reason of its size and wealth and the number of people there, perhaps that is as it should be—I do not know. In any event, there is undoubtedly a problem with the Buffalo broadcasting stations drawing off a large amount of Canadian advertising revenue, and using it to develop the industry in the United States.

That is a problem and I am the first to admit it, so let us examine exactly what the problem is. Is not the problem that the Canadian advertisers seek to use those stations because they are a better media for reaching the Canadian consumer than any other media? As I said a few moments ago, I find Canadian advertisers pretty shrewd people and pretty thrifty with their money, and hard-boiled about the matter. They go there because that is the best coverage for that segment of the Canadian market they can get.

What we are doing by this legislation is punishing those Canadian advertisers by taking that benefit away from them, and making it impossible for them to advertise on those American stations and, therefore, impossible for them to reach their Canadian customers. Is that a good way of solving the problem? I respectfully submit it is a bad way.

It is unfortunate that the broadcasters and the publishers of magazines are dealt with in the same bill because they are very different subjects. We should remember that the broadcasters are controlled by regulatory bodies. They are granted a limited type of monopoly, each by his own government in his own country, and are subject to various types of regulations by the appropriate regulatory bodies. Is not the correct way of dealing with this problem to have this Canadian money used for the development of better media in Canada, stronger media in Canada, so that Canadians can develop a broadcasting capacity that will be attractive to the advertisers.

• (2110)

I would suggest that the better way of doing it would be by negotiating some regulatory agreements with the United States, but they should not be negotiated by the Canadian broadcasting regulatory body. It should be the technical advisers only on that kind of negotiation. It is a bigger, more important subject because the amount of money involved is substantial; it is much more. The regulatory body of the broadcasting media should merely be the technical advisers on all matters relating to broadcasting. But there should also be a proper feed-in by those concerned with the economy of this country, by those concerned with getting the best possible advertising, by those concerned that the consumers get the best service possible from the companies which advertise their products. In other words, the whole Canadian interest should be examined, and that negotiation should be carried on in a responsible way at the very senior level between the two governments. Then, in the light of what arrangements are made, the necessary regulatory action can be taken. Conceivably, this could involve legislation, but I suspect that it probably would not. It seems to me that that is the way to deal with it.

Incidentally, to my knowledge nothing has been said in the debate so far about those Canadian broadcasting corporations which have had very considerable assistance in developing their stations through their advertising into the American market. I do not have the figures, but I suspect that by the nature of things a much smaller amount of money is involved. Nevertheless, it would also require to be dealt with at the same time. Both aspects should be dealt with on an equal basis.

Senator Rowe: Would the honourable senator permit a question? Would these agreements be between the governments of the two countries concerned?

Senator McIlraith: Oh, yes.

Senator Rowe: Nobody else would be involved in the agreements?

Senator McIlraith: It would be between the governments, and the governments presumably would agree to take action within their own regulatory agencies. There are various ways of working it out. I do not presume to know what the final outcome would be.

I should like in a moment to refer to the Toronto problem, but first I will refer to the Bellingham problem. There the situation is totally different, but Toronto, with its weight and power, has had its way in the legislation—or a segment of the Toronto population has had its way—and the problem is quite different there.

With respect to the Bellingham station, the Canadian advertisers have to use it because they have no other media at this point. Not only that, but the interesting thing in the Bellingham situation is that the Canadian advertisers' money does not go out of Canada. It is all paid to a Canadian corporation in Canada and is, therefore, exclusively under our own control. Part of that money is used for the development in Canada of talent, dramatic and otherwise, in the broadcasting media.

I am not sufficiently well informed on the point to say with authority, but it may well be that not enough of that money is being spent in Canada. It may be that we should

require them to spend a larger proportion of that Canadian advertising money to develop the Canadian talent in radio and television. There may be problems of that sort. It may be that we should be taxing that Canadian company more heavily. But this bill does not deal with any of those issues.

What does this bill do? Once again it takes something away from Canadian advertisers who are trying to sell goods to Canadian consumers at a time when this is to our advantage. It takes away from the Canadian advertiser the one good assistance he has in doing that, namely, the right to advertise his goods. Surely, at the very politest, that is a left-handed way of dealing with the problem. Surely it is not good enough.

Senator Flynn: With this bill we will collect less income tax from that company.

Senator McIlraith: Oh, yes, I know.

I hope I have made my points. I hope they are supplementary to what has already been said. The bill has caused me grave concern. Unlike some others who have opposed this bill, I recognize at once that there are problems to be dealt with in both these areas. I am quick to admit that, but I find the bill totally wrong in principle. It is totally wrong in concept, and it is totally wrong in the way in which it tries to deal with the problem.

I have very reluctantly, after much consideration and thought, come to the conclusion that the only proper thing to do is to seek to kill this bill so that the government may come back with carefully thought-out legislation to deal with the real problem; a form of legislation which will be fair to Canadian readers of periodicals, to Canadian listeners of broadcast material, to Canadian advertisers, to Canadian consumers who buy the products being advertised, and to the companies doing business in this country.

Honourable senators, I thank you for listening to me so patiently. I hope my remarks have contributed something useful to the solution of what I regard as a difficult problem.

Hon. L. P. Beaubien: Honourable senators, I should like to say just a few words on Bill C-58. First I should like to point out that these regulations which stop Canadian advertisers from using foreign periodicals really affect only the small companies or small businesses, because all big businesses or big advertisers having the capacity have had the common sense to buy into and control companies in the United States. Those of you who have been following the financial news lately know that our big companies have been falling all over themselves buying in the United States. Either they are buying companies or they are creating subsidiaries, and, of course, every time that happens it means that jobs are being exported to the land of the bold and the free below the border.

Honourable senators, among other things, in many cases this bill prohibits Canadian companies from doing business with other Canadian companies, because if a Canadian company is controlled in the United States, the bill prohibits another Canadian company from doing business with it or for it. For example, although *Time* Canada is a Canadian company, you would not be allowed to advertise in it under this bill.

Suppose the government were to come along and say that you couldn't buy a truck from General Motors of Canada and charge it up against your business? The fact is that you can buy a truck from General Motors of Canada and claim the cost of its operation as a business expense. Why? Because the company is 100 per cent owned in the United States. Are you going to be told you cannot buy oil from Imperial Oil, because 60 per cent of it is controlled by Exxon? This, however, is what you are asked to accept. *Time* Canada is a Canadian company, but if I want to advertise in it I cannot charge the cost as an expense. Does that make any sense?

● (2120)

Senator Smith (Queens-Shelburne): That is a little different from your statement that you are not allowed to.

Senator Beaubien: You are not allowed to in terms of economics. You can throw your money out the window if you like.

Senator Smith (Queens-Shelburne): You know that you can get it at half price?

Senator Beaubien: That's childish talk.

Senator Smith (Queens-Shelburne): It is a statement by *Time* magazine. They are selling advertising in this country at half price.

Senator Flynn: That is not a very good argument for the bill.

Senator Beaubien: They are selling advertising at half price, because otherwise they are going to go out of business.

There is one other argument that I should like to make. When Senator Laird spoke to us the other day in what I thought was a very good speech, he referred to the Canadian habit of doing everything we can, for no good reason, to antagonize our big American neighbour. Without taking too much of your time, I would remind you of the delegation that we sent to the United States, headed by our senior senator, Senator Hayden. On November 11, 1971, Senator Hayden, Senator Macnaughton and I went down to the United States with about 22 members of the House of Commons. We went there with our tails between our legs because the President of the United States had, a few months before, slapped a 10 per cent import tax on everything that came from Canada, and only from Canada. If that had been allowed to go on for a few more months it would have ruined our economy in many ways. So we went down there ready to be terribly kind and pleasant and we were, and in return they were nice to us. A few months later they removed the import tax.

There are people who sit back and pretend that it doesn't matter, at a time when the United States is having trouble with Cuba, that our Prime Minister goes down there and makes a big to-do and has his picture taken with Castro. But where does that behaviour get us when, about two weeks later, the American President calls that dictator an international bandit? Certainly, if you are a little guy and you are up against somebody like Joe Louis and he has you backed into a corner, you will fight back to defend yourself. But to kick a big guy in the shins just for the hell of it simply doesn't make any sense. We should grow up and realize that we are terribly lucky to have neighbours who are so much like ourselves that it is difficult to tell us apart. Are we not lucky to have Americans as neighbours? Any time we have been nice to them and behaved sensibly they have responded. I think it is time we mended our ways.

On motion of Senator Lafond, debate adjourned.

The Senate adjourned until tomorrow at 8 p.m.

THE SENATE

Tuesday, March 23, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report on the administration of the Members of Parliament Retiring Allowances Act for the fiscal year ended March 31, 1975, pursuant to section 35 of the said Act, Chapter 25 (1st Supplement), R.S.C., 1970.

PUBLIC SERVICE COMMISSION

NEW OFFICES—INTERIOR WALL DECORATION—QUESTION

Senator Forsey: Honourable senators, I should like to ask the Leader of the Government if he can find out for us whether it is true that the new quarters of the Public Service Commission are decorated with suède walls, and there I don't mean s-w-a-y-e-d, but suède, s-u-e, accent grave, d-e—suède walls. I was credibly informed this afternoon that this was so, and it did not seem somehow to jibe with the calls upon us for restraint. I should be very glad if the Leader of the Government could find out whether there is any truth in this astonishing story, which I got from an eye-witness.

Senator Flynn: It is to save energy.

Senator Perrault: Honourable senators, I have no knowledge of suède walls, whether in fabric form or "swayed" walls in architectural or engineering form. However, I shall take the question as notice and I shall make the appropriate inquiry. May I say, however, that some of the reports circulating today about alleged extravagances in ministerial and governmental offices are, in my view, somewhat exaggerated.

Senator Grosart: Have you been in all of them?

Senator Perrault: I shall certainly undertake an inquiry about the alleged suède walls in the offices of the Public Service Commission.

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—CORRECTION OF STATEMENT

Senator Molgat: Honourable senators, last evening, after my presentation of the bill respecting United Grain Growers Limited, I was asked a question by Senator Paterson and another question by Senator Grosart regarding the structure of the company. Part of my reply was completely accurate, and I must thank my honourable colleague, Senator McNamara, for bringing the matter to my attention.

The company, in fact, is completely controlled by grain growers. The class B shares, which are the only voting shares, can only be held by active grain growers, *bona fide* farmers. Each one of those farmers has only one vote, regardless of the number of shares he may own.

There is a second class of shares, the class A shares. These are investment shares which can be purchased on the stock market, and which carry a dividend, but they carry no voting privileges. Class A shares, however, can be held by others than grain growers. There is a limit to the number of these shares which may be held by any one person. These are $20 par value shares and under the present limit one individual can hold only 2,500. The bill proposes an increase in these shares which have no voting rights.

So, the company, in fact, is controlled by grain growers, but others may purchase class A shares for investment purposes.

ADMINISTRATION OF JUSTICE

RESIGNATION OF MINISTER OF CONSUMER AND CORPORATE AFFAIRS—QUESTION ANSWERED

Senator Perrault: Honourable senators, a question was asked yesterday concerning the opinion provided for the Minister of Justice and Attorney General of Canada by law officers of the Crown in respect of the Deschênes Report. I now have some information for honourable senators.

Upon receipt of the report prepared by Chief Justice Deschênes, the Minister of Justice immediately and forthwith referred it to the law officers of the Crown as was, in his view, his duty, obligation and responsibility as Attorney General.

The Minister of Justice had the letter of the Chief Justice reviewed by the law officers of the Crown to determine whether it disclosed any conduct constituting a willful intent to obstruct, pervert or defeat the course of justice within the meaning of the Criminal Code or whether there was conduct interfering with the course of justice amounting, in law, to contempt. These, in fact, constitute the terms of reference provided for the law officers by the minister.

● (2010)

The Minister of Justice was advised subsequently that there was nothing disclosed in the letter of the Chief Justice which dictated the need for further action by the Minister of Justice in accordance with his duties under the law, and he then advised the Prime Minister.

I have confirmed that it is not the practice to table or to otherwise make public the written opinions provided by the law officers of the Crown for the Minister of Justice and Attorney General.

Senator Flynn: May I ask the Leader of the Government if it was, in fact, a written opinion that the Minister of Justice received from the law officers?

Senator Perrault: It is my understanding that the opinion was in the form of a memorandum sent by the senior law officers of the Crown to the Minister of Justice.

Senator Flynn: My understanding is that the opinion sought was based exclusively on the letter from Chief Justice Deschênes.

Senator Perrault: Honourable senators, I have described in some detail the request submitted to the law officers of the Crown by the Minister of Justice, and I repeat it. "The question was whether it (the Deschênes report) disclosed any conduct constituting a willful intent to obstruct, pervert or defeat the course of justice within the meaning of the Criminal Code or is conduct interfering with the course of justice amounting in law to contempt."

This is the reason why the Prime Minister has taken the position, and the government has taken the position, that based on this opinion there have been no illegalities—

(*At this point the lights in the Senate Chamber went off for a brief period.*)

I want to assure honourable senators that despite the brief blackout the Government of Canada pays its light bills.

Senator Flynn: It is quite obvious that the government closed its eyes to the other evidence that could have been secured, and asked only for an opinion on the Chief Justice's report, which was not a report requested of the Chief Justice as to any illegality by ministers because Chief Justice Deschênes said that he had nothing to say about the ministers, only about the reaction of the judges. I can see that the light went out on some part of the story.

Senator Langlois: We were as much in the dark as you were.

Senator Perrault: Certainly, the power failure reinforced the view that the Opposition may be the entity in the dark in this chamber.

Senator Flynn: It is your fault.

Senator Perrault: Seriously, if the honourable senator has any material which would justify a charge of illegality, by all means it should be made available to the appropriate sources so that appropriate action can be taken.

Senator Flynn: Is the government prepared to supply all the material it has?

Senator Smith (Colchester): The answer is no, I think.

Senator Asselin: Is the answer no?

COMMITTEES

NOTICE OF MEETING

Senator Perrault: Honourable senators, before we proceed to other matters, may I make a brief announcement?

I invite the Leader of the Opposition, the Deputy Leader of the Opposition, the Whips for both the government and the opposition, as well as all committee chairmen, to meet in my office after the Senate rises in order to review the plan which has been developed by Senator Bourget and his committee of senators for the operation of Senate committees. It should be a very brief meeting. I can report that excellent progress has been made during the past week, and it may be a useful meeting to have at this time.

Senator Grosart: It will not conflict with any other committee meeting at this time.

Senator Perrault: Yes, I hope that it does not conflict with any other committee meeting.

THE HONOURABLE ELSIE F. INMAN

Senator Perrault: Honourable senators, with reference to another matter concerning one of our colleagues, regretfully I must report that the Honourable Senator Inman is again in hospital—Kings County Memorial Hospital in Montague, Prince Edward Island. I know that all honourable senators join in wishing Senator Inman a speedy recovery.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for the second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Lafond*).

Senator Lafond: Honourable senators, I adjourned this debate in my capacity as Acting Whip of the government, and with leave I would yield to the Honourable Senator Manning.

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

Hon. Senators: Agreed.

Hon. Ernest C. Manning: Honourable senators, I will detain the house only briefly while I make a few comments on this bill, which has already been discussed quite fully in this chamber. Probably just about everything that needs to be said about it has already been said.

I did not have the opportunity to hear all the addresses that were given, but I was particularly impressed by the analysis of the bill made by Senator Hayden, and also by the address of Senator van Roggen. In fact, most of the points I had intended to make have been made in those two addresses, and others, and it is unnecessary to enlarge on them to any degree. It is my sincere hope that when this bill goes to the Standing Senate Committee on Banking, Trade and Commerce, the committee will be able to recommend some significant amendments which will overcome the objectionable features which cause concern to many of us.

The more one reads the bill and tries to assess its implications, the more difficult it is to escape the conclusion that it was motivated by a narrow, negative nationalism that is unworthy of the Parliament of Canada. What this does is make it impossible for Canadian advertisers, for economic reasons, to any longer use the publications

affected by this bill, which are produced in the United States, or which, at least, have their base in the United States, such as *Time* magazine. The bill also will make it impossible for Canadian advertisers to use American television stations which they have been using, undoubtedly because they feel those stations reach a large section of the Canadian people, and which use, in their judgment as advertisers, represents the best use of their advertising dollar.

Leaving aside the valid arguments that can be advanced, such as protecting Canadian publishers, retaining money in Canada, and so on, this type of legislation represents a very serious interference in the legitimate decisions of advertisers as to where they should place their advertising to get the best value for their money. Of course, it can be argued that they can go on doing that, but this bill, by preventing them from deducting those costs as legitimate expenses for income tax purposes, will undoubtedly have the effect of reducing to a very large extent their use of the media that they have been accustomed to using.

We should perhaps be even more concerned with the indirect effect that this has on the Canadian public. When I say that this legislation is motivated by negative nationalism, it is because I sense behind this action another of the all too frequent instances in recent years of the government's trying to protect the Canadian people from themselves and from being influenced by the impact of publications and television programs coming in from the United States, which the government seems to think will undermine our Canadian identity and impair our Canadian culture. In my view, that type of argument is superficial and simply does not stand up. Surely the Canadian people are mature enough to decide for themselves whether they want to watch Canadian television programs or American television programs.

● (2020)

Perhaps the thinking behind this legislation stems from the fact that a number of recent surveys have indicated that a great many Canadians have a strong preference for American television programs. These stations, therefore, have a very large Canadian viewing audience, which, as I have indicated, makes them attractive to Canadian advertisers. I am sure many honourable senators saw a survey in this field which came out not long ago. It was interesting to note that of the fourteen top television programs that emerged in this survey, with the exception of two, one of which was a special production by the CBC and the other a special production by CTV, all the remaining programs with the largest viewing audiences in Canada were American productions. In my region of Canada, cable television has become very popular in the last few years, largely because Canadian viewers do desire to watch American programs.

In my view it is unrealistic, and extremely unwise on the part of the Canadian government, to follow a course which amounts to administering a slap in the face to American television stations and American publications, behind which is the erroneous assumption that by this kind of thing the culture of Canada can be protected and a greater Canadian identity developed. Canadians do not need that kind of protection. I believe we are mature enough to make our own decisions, and it is not the prerogative of government to interfere in matters of that kind.

I am not acquainted with the situation with respect to American television in the eastern and central parts of Canada, but I do know that on the west coast, as I am sure senators from that part of Canada will bear out, American television stations that are making a policy of beaming into Canada have gone a long way to do everything they could reasonably be expected to do to show themselves good corporate citizens in this country. They have established a Canadian identity; they have, for the most part, retained their Canadian revenue in this country; they have made vast capital expenditures in Canada for the provision of facilities in the area of public communications; they have encouraged Canadian artists, Canadian actors, Canadian writers and Canadian culture. However, simply because their base is outside the country, under this legislation they now face the loss of their advertising revenue, after having made large expenditures in Canada feeling that they were doing the proper thing as good corporate citizens.

In the matter of publications, those affected are pretty well down to *Time* magazine and, as several honourable senators have pointed out, it is very difficult to escape the conclusion that as far as *Time* is concerned the government's intention was to put it out of business. When *Time* agreed to the requirements as far as percentage of Canadian ownership and management was concerned, and even said they could live with a relatively high percentage of Canadian content, the minister kept on increasing the percentage until it was up to 80 per cent. This, of course, made it utterly impossible for the magazine to carry on its type of publication. I believe one honourable senator said that the indication was that if *Time* magazine had said it could live with 80 per cent Canadian content the minister would have raised the requirement to 100 per cent. The obvious objective was to get rid of *Time* magazine and to force Canadian advertisers to bonus mediocrity in the form of second-rate Canadian magazines which wanted to take the place of *Time*. *Maclean's* is, of course, the one that comes first to mind.

I suggest, honourable senators, that when we are dealing with a publication such as *Time* we know that people never bought *Time* magazine to obtain news and information with respect to Canada. They bought *Time* because it was a publication that had worldwide news-gathering facilities. It carried not only detailed information relating to geographic areas around the world, but also had a significantly large number of departments in which readers could gather information that was of interest and importance to them. To suggest to such a publication that it could carry on any semblance of its objective as a publication with 80 per cent Canadian content was utterly ridiculous. I doubt if many people bought *Time* magazine even to read the Canadian section, because all that section did primarily was to summarize in its own particular style the national events in this country, which are reported every day in our daily press, and of which we were all knowledgeable before we read of them in *Time*. The whole handling of this matter is incomprehensible. It is hard to understand why a government would become involved in a thing of this kind, which was so totally unnecessary and which naturally

created the impression south of the line that Canada does not value a warm, cooperative relationship, in business or otherwise, with our neighbour. What other interpretation could be placed on this arbitrary, heavy-handed, crude way of dealing with this matter?

Personally, I like the suggestion made by Senator van Roggen, that any real problems that do exist in the matter of the impact of American television in Canada—and the same is true in the matter of *Time* magazine—the intelligent thing would have been to have appropriate representatives from each country sit down together and work out a treaty which would respect the interests and viewpoints of both countries. Certainly this legislation is not the way to deal with any problems that exist.

As I said at the outset, I do not want to delay the house, but I would like to make one brief comment with respect to another aspect. This, I am sure, has already been brought to the attention of honourable senators. You have undoubtedly received information regarding the excellent publication *MD of Canada*, approximately 30,000 copies of which are distributed free in this country to the medical profession. It is primarily a medical publication, but it is unique in that in addition to medical information it contains a large section devoted to the arts, culture and a broad range of interests of this type. *MD of Canada* points out that if they are denied the tax benefit that they have enjoyed in the past there is no way they can carry on this type of operation in Canada. I would put on the record part of a paragraph from a letter written by Dr. William Gibson, the distinguished Canadian physician who is editor of this publication. He makes what I consider a valid observation:

● (2030)

> —advertising dollars which now go to *MD of Canada* will not as a result of Bill C-58 be re-directed to other publications for physicians. Those who now advertise in *MD* also advertise in all other publications directed to the same audience. It would be unreasonable to expect an advertiser, in the absence of *MD of Canada*, to place a second advertisement in a publication already carrying the same advertisement... most important, it is almost beyond possibility that a publication comparable to *MD of Canada* could be produced and operated successfully in Canada with only physicians in Canada as its audience. *MD of Canada* is produced by a staff of researchers and writers of great competence and skill, who have been associated with this particular publication for many years. The cost of producing and publishing any one issue is very high and, therefore, to operate this magazine must have an audience beyond that of only physicians in Canada.

Honourable senators, we can perhaps assume that when this legislation was drafted and passed in the other place no thought or consideration was given to its devastating impact on this kind of valuable publication. *MD of Canada* is just one more example of an excellent publication which will be put out of business if this bill is passed as worded.

Honourable senators, may I repeat the hope that the committee will recommend significant amendments to meet these valid concerns and objections to the bill, if in the committee's judgment it should not go so far as to kill the bill altogether.

Senator Flynn: Why not now?

Senator Davey: Honourable senators, may I ask Senator Manning a question? In his opinion does this legislation in any way, shape or form hinder the circulation in Canada of those portions of *Time* magazine, other than the Canadian section about which he spoke? I agree with his comments in that regard, but does the legislation in any way hinder the circulation in Canada of the balance of *Time* magazine?

Senator Manning: Honourable senators, no, of course, it does not interfere with it. As everyone knows, *Time*, having withdrawn the Canadian edition, is now selling the American edition in Canada, the only difference being the increase in price. It is now $1 instead of 75 cents.

The fact remains that Canadian advertisers are denied the use of that most widely-read publication, unless they pay the total cost of advertising without its being treated as a valid, deductible expense.

On motion of Senator McElman, debate adjourned.

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—MOTION FOR ADOPTION OF REPORT OF COMMITTEE—MOTION IN AMENDMENT—DEBATE CONTINUED

The Senate resumed from Thursday, March 18, the debate on the motion of Senator Laird for the adoption of the Report of the Standing Senate Committee on Internal Economy, Budgets and Administration, which was presented on February 24, and on the motion in amendment thereto of Senator Côté, which was made on March 17.

[*Translation*]

Hon. Paul Lafond: Honourable senators, I already spoke when the report was tabled so I will try to be as short as possible on this amendment.

My remarks at the report stage dealt specifically with the question of the organization of committees and the time when these committees met. I would like to commend the leaders of the government and of the opposition and their assistants who have made good progress during these few weeks, thanks particularly to the diligence of Senator Bourget who took on some responsibilities in this regard. I foresee brilliant success. I hope this will come within two or three weeks.

When the original motion was proposed by Senator Godfrey in May 1975, many of us thought that it was perhaps a little naive and untimely. We discussed it shortly and referred it to a committee. The committee produced its report. As Senator Godfrey himself said in reply to the proposed amendment, I also regret the decision of the committee contained in the first paragraph. However, I admit that the committee studied the problem carefully and proposed a sensible solution. Therefore I accept it.

Now, we are considering an amendment suggesting that the report be sent back to the committee and that they redraft paragraphs 2 and 3. I must say I readily accept these two paragraphs. If I said that last May some of us found Senator Godfrey's motion a little naive, I have the impression that some of us can now consider Senator Côté's motion as a little frivolous. I say this without any prejudice at all, because I understand very well the thinking on this subject of Senator Côté and Senator Robichaud, who seconded the motion, and very likely of several other

members of this house who have served their political apprenticeship in an elective assembly where they were responsible to the electorate, where they have been raised politically and faced with this exclusive responsibility towards their constituents.

I do not support this amendment. I also invite my colleagues to reject it, because I believe it does not attack—not more and perhaps a little less than the initial motion moved by Senator Godfrey—the problems we are confronted with. Moreover, it seems to me that since I have come here we have never mentioned the core of the problem and neither did the press.

It is a manpower issue in the Senate. I shall not quote figures at all stages but recalling the basic question, let me remind you of this. In the Senate we have a total of 104 members all told. The other House has 60 per cent more members. However, our business is about the same, except for the estimates and certain financial issues, and our legislative business—I repeat—is quite the same, without the usual political considerations for which we do not blame the other place.

So we have approximately 40 per cent the number of members in the other house to do roughly the same work.

Senator Bourget: I am sorry to interrupt the honourable senator, but if he were to figure it out, he would notice it is far from 40 per cent, for we have 102 members and they have 264. So if you make the calculation you will find out it is over 200 per cent; they are two and a half times as many as we are. I am sorry for interrupting you.

Senator Lafond: Well, we are less than 40 per cent as compared to the other place.

Senator Flynn: He is right, it depends how you look at it.

Senator Lafond: However, of our total of 104 seats, on February 3 this year 12 were vacant. Talking about the reform of the Senate, Senator Croll mentioned the fact that we always have vacancies. It would seem that on the average between 10 and 15 per cent of our seats are vacant.

● (2040)

In addition, and that is unfortunate, the fact is that by the very nature of this Chamber, the average age is much higher than that in the other place. There is also the fact that, regrettably some of our colleagues are almost permanently disabled and are therefore in no position to contribute to the business of the Senate. What is more, some of our colleagues are ill off and on, reducing our work force further. Of the small number available, some are often or constantly called upon to represent Parliament on official business abroad or at home. That happened much oftener when we had—if you will allow me to say so—a minority government; then the government called much oftener on the members of the Senate to represent them abroad.

In addition, I have a feeling that some honourable senators accepted their appointment to the Senate with the idea, if not the resolution—which they may have made a habit of by now—of devoting to the Senate maybe one, two or three weeks out of four. Some of our colleagues also have to assume, for the political parties they represent, rather heavy duties. I know whereof I speak because, in the last three or four years, I was one of them.

[Senator Lafond.]

Still, it seems to me, considering all that—though I have no figures for each category—and in spite of that, the daily business of the Senate goes on. The Senate must work in spite of everything. In addition to our business in the Senate, and with a small number of really active senators, let us not forget that we have to supply the manpower, the attendance, men and women, the senators to sit on nine standing committees, two special committees, four joint committees and two special joint committees. All this takes manpower but, from the figures I just quoted, it can be imagined how many senators remain to handle the Senate's routine business. It seems to me that in some cases they are the victims of some unfair treatment.

The key problem is not who records the attendance, whether it be someone from our staff or not. The key problem is not to know who does the checking. It is only a matter of remembering, in our daily prayers, to whatever God, whatever our religion may be, that part of our commission that is the essential requirement we endorsed, the requirement upon which was predicated our acceptance of the Senate summons.

I would quote once more that part of our commission which, in my view, we should remember daily. It goes like this:

> AND WE do command you, that all difficulties and excuses whatsoever laying aside, you be and appear for the purposes aforesaid, in the Senate of Canada at all times whensoever and wheresoever.

That in my view is the crux of the matter. If we were numerous enough to honour the obligation we undertook when we were summoned to the Senate, the amendment moved by Senator Côté then becomes ineffective and useless.

Senator Côté: I should like to put a question to Senator Lafond. He may find it very easy to suggest that certain motions are naive and others frivolous, but is he not aware that the committee report referred only to attendance in this house? This had nothing to do with committee attendance. All Senator Lafond mentioned is committee attendance as opposed to attendance in this house. Do you not think you are completely beside the subject?

Senator Lafond: Not at all. I believe I addressed myself as much to Senate attendance as to committee attendance.

Hon. Gildas L. Molgat: Having worked for many years with my old friend, Senator Lafond, I regret not being able to support his point of view.

It seems to me it would be to the advantage of the Senate to return this proposal to the committee. My opinion is that several questions were not really investigated enough, particularly as regards the distance problem. That is a question which senators must resolve for themselves I suppose. Nevertheless, it is extremely important if we are to do our duty as representatives of regions. I think for instance of our new colleague Senator Lucier from Whitehorse in the Yukon. Everyone should take a minute to imagine how long it takes him to get to Ottawa. I did not ask him but he surely can tell us himself and I suspect it takes him at least a whole day if not two.

Then is Senator Lucier in the same position as another senator who lives in Ottawa? Not at all. It seems to me that the committee must carefully examine this matter. If we

are given the choice, shall we go and live in our own region and keep in touch with the people we are supposed to represent? Shall we do our work as regional representatives or shall we all come and live in Ottawa?

I for one do not think we should all come and live in Ottawa, because I suggest that a senator would then fail to assume his responsibilities and would not really be in touch as he should be, I would suggest, with the people he represents.

Therefore, I think that the committee must consider the matter on a much wider scale than it has been able to do until now. Moreover, when I refer to Senator Lucier, you probably know that there are many other senators who are living much closer to Ottawa, at a distance of 100, 200 or 300 miles but who, because of a lack of transportation or accessibility, may endure the same difficulty.

So I suggest it would be very useful for the Senate to examine this whole matter in depth. Frankly speaking, I have no excuse to offer for those who should be here and are not. No way. We have been appointed here to accomplish a task On the other hand, we have to admit that when it comes to accomplishing this task there are many differences between those who live somewhere very near and those who cannot reach Ottawa easily.

I would not like—and I know that the press can in this case present the facts in a very difficult manner—to indicate that senators do not want controls, that they want no part of a responsibility system, etc. However, with these risks in mind, it seems to me that the committee should re-examine the matter and determine how senators can better do their duty, better represent the public and take care of their responsibilities, which in their area are often quite legitimate, while doing their duty in the Senate.

For my part, I believe we should take the matter back to the committee and let it examine further all the issues which concern representation here in the Senate.

● (2050)

[*English*]

Hon. George C. van Roggen: Honourable senators, I had not intended speaking to this matter but I feel constrained so to do following the remarks of Senator Lafond and Senator Molgat. I come from not as far as Whitehorse, as Senator Lucier must do, or from Nanaimo, as Senator Bell must do, but twice as far as Senator Molgat comes to attend in the Senate.

I should like to start, without sounding self-serving, by saying that I have no apology whatsoever to my conscience or anyone in Canada for the manner in which I have applied myself to my duties as a senator since being appointed to this chamber, and the time I spend here and in British Columbia on matters directly related to the Senate and its business.

The committee report makes no allowance whatsoever for distance of travel, as I understand the report.

Senator Grosart: It does.

Senator Flynn: It is not relevant.

Senator van Roggen: I am sorry, senator, I did not hear you.

Senator Flynn: I said that distance is not relevant to the report.

Senator Grosart: It has nothing to do with the report.

Senator van Roggen: It has insofar as I am concerned. I am going to develop my reasons for that in a moment.

I put it to honourable senators that if a senator from as far away as Vancouver endeavours, as I have, to come here for three weeks a month to attend to government business, and then crowd public business in Vancouver into the fourth week, he is in a far different position from those senators who just come from a half hour's distance away. I would not be serving my constituents better by simply moving to Ottawa and living here. It would then be impossible, as Senator Molgat pointed out, to look after the interests of British Columbia or stay in touch with the situation in British Columbia.

If I have occasion to do government business of any nature whatsoever in British Columbia on the Tuesday of that fourth week, when I try to arrange these matters and crowd them into that one week, does this mean that I should fly eight hours in order to be here on the Wednesday and fly back another eight hours on the Thursday?

Senator Grosart: I wonder if the honourable senator has read the report. The report says nothing about any of the things he is mentioning. The report merely asks why a senator is away, and says nothing else.

Senator van Roggen: What should I say I was doing on the Wednesday or Thursday, if I was busy in Vancouver on the Tuesday? Am I to make up a story, or fly all the way here, at a great expense to the taxpayers of Canada, on Wednesday and fly all the way home again on Thursday?

Senator Grosart: Why not?

Senator van Roggen: You ask why not, Senator Grosart. I say to you that that is gross stupidity, a waste of the taxpayers' money and a ridiculous proposition. This, after all, is a country 5,000 miles in breadth. The capital happens to be in Ottawa, and we have to recognize the fact that we do not all live in Toronto, Montreal or Ottawa.

Senator Flynn: I suggest to the honourable senator that he could send a letter saying, "I could not be present on Tuesday, Wednesday and Thursday because I had to be in Vancouver on Wednesday." It is as simple as that.

Senator van Roggen: I understand perfectly that if I have to be in Vancouver on a Wednesday, then I cannot be here on the Tuesday and Thursday.

Senator Flynn: You could not be here on the Wednesday either.

Senator van Roggen: I gave a specific example of having government business in Vancouver on a Tuesday. Theoretically, I could get a flight on Wednesday morning, and be here Wednesday evening. I would miss the Wednesday sitting, but I would be able to attend for two hours on the Thursday afternoon before we adjourned, at which time I would travel home again.

I submit that the committee has not considered this matter adequately insofar as this particular aspect is concerned. I support the amendment for the sole purpose of having the report referred back to the committee for consideration of this type of problem. I do not, with respect, think that those who have to travel great distances have been given adequate consideration.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 24, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Canadian Transport Commission for the year ended December 31, 1975, pursuant to section 28(2) of the National Transportation Act, Chapter N-17, R.S.C., 1970.

Report of the Ministry of State for Science and Technology for the fiscal year ended March 31, 1975, pursuant to section 22 of the Ministries and Ministers of State Act, Part IV of Chapter 42, Statutes of Canada, 1970-71-72.

Lists of Census Commissioners appointed as of March 17, 1976, for the 1976 Census of Canada.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) PRESENTED AND PRINTED AS APPENDIX

Senator Sparrow: Honourable senators, I have the honour to present the report of the Standing Senate Committee on National Finance on supplementary estimates (B) for the fiscal year ending March 31, 1976, and I would ask that the report be printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings* of today and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report see appendix p. 1948.*)

The Clerk Assistant (Reading):

The Standing Senate Committee on National Finance to which the Supplementary Estimates (B) laid before Parliament for the fiscal year ending the 31st of March 1976 were referred, has in obedience to the order of reference of Wednesday, March 3rd, 1976 examined the said Estimates and reports as follows: 1. In obedience to the foregoing, the Committee made a general examination of supplementary estimates (B) and heard evidence from the Honourable J. Chrétien, President of Treasury Board, Mr. B. A. MacDonald, Deputy Secretary and Mr. R. L. Richardson, Assistant Secretary, Program Branch, Treasury Board.

Some Hon. Senators: Dispense.

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

Senator Sparrow moved that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Motion agreed to.

CANADIAN COINS

REPORTED CHANGE IN DESIGN—QUESTION

Senator Forsey: Honourable senators, I should like to ask the Leader of the Government a question arising out of something that appeared in a letter in the *Globe and Mail* yesterday, from a gentleman describing himself as Visual Arts Head, Central High School of Commerce, Toronto. He says:

> I understand from a recent article on coins that the government may change the fronts and/or backs of the present currency in 1977.

He then adds:

> Some of the controversy seems to revolve around the use of the Queen's head—

And then he goes on with other matters which are not pertinent to my inquiry.

I wonder if the Leader of the Government could give us any information on any plans that are being made for changing the coins and, in particular, anything that the government may have in mind, *absit omen*, à Dieu ne plaise—I can add, God forbid—any plans the government may have in mind for removing Her Majesty's head from coins?

Senator Perrault: I know of no plans to remove the portrait of Her Majesty from the coins of Canada. Certainly one plan current for the coinage of this country is to improve its purchasing power. However, I shall take the question as notice and endeavour to provide a more helpful reply.

COMMITTEES

IMPLEMENTATION OF NEW SCHEDULE OF MEETINGS

Senator Perrault: Honourable senators, I should like to inform the house that the schedule for meetings of Senate committees, which has been developed by the coordinating committee chaired by the Honourable Senator Bourget, will be operative during the week of April 4. This date has been set as a result of consultation with the Acting Director of the Committees Branch, who advises that plans are already set by the various committees for the week of March 28. It is felt that honourable senators would like, however, to have this information. Again may I say that the evolution of this schedule has been possible only through the best possible kind of co-operation, not only from the chairmen of the various committees but from all

honourable senators, including our friends in the loyal opposition.

● (1410)

With respect to another matter, may I say that it is good to see more light on the Opposition side of the chamber this afternoon.

Senator Flynn: But again it is not your fault.

Senator Buckwold: It is not your fault either.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Charles McElman: Honourable senators, this has been a very interesting debate, but up to this point a very one-sided one.

Senator Flynn: As it should.

Senator McElman: I will get to you in a moment, Senator Flynn.

By my count, there has been one speaker really in favour of the bill, the sponsor, Senator Davey, whom I congratulate on a detailed and persuasive presentation, and there have been nine speakers who have shown, I guess one could say, something less than enthusiasm for the bill. As one who supports the bill and is in favour of its principle—

Senator Flynn: Bravo! At long last.

Senator McElman: —you will perhaps permit me to make the dreadful pun that this debate has a bit of "pro" and a lot of "con." In view of the imbalance of the debate thus far, you will perhaps lend me your patience for a bit longer than one would normally take.

Some of the statements made in the debate have been quite astounding to me. I have formed the habit of watching the Leader of the Opposition, the Honourable Jacques Flynn, for his reaction during debate, and I sensed, perhaps inaccurately, that he, too, has been astounded by some of the comments made by some senators. I admire Senator Flynn, not only for his usual affable personality but also for his shrewdness as a debater and a tactician. He also has given frequent evidence of having a very long and accurate memory, and I sense it is that fact which may have motivated him, I suggest, very shrewdly, to stay out of this debate.

Senator Flynn: The debate is not over yet.

Senator McElman: I appreciate that, and I am still hoping.

Senator Smith (Colchester): He is just waiting for game that is big enough.

Senator McElman: Senator Flynn undoubtedly remembers well the debates in the Senate and the House of Commons of June 1965.

Senator Flynn: I do.

Senator McElman: I am sure you do. I am referring to the debate on Bill C-118 at that time, which was in truth the mother of this legislation, Bill C-58.

[Senator Perrault.]

Senator Flynn: A first mistake does not excuse a second one.

Senator McElman: I suspect that if Senator O'Leary were here with us today—and I truly wish he were—he would say that Bill C-118 of 1965 was a mother who had compromised her principles, and I would agree with him.

Senator Asselin: Was it a good mother?

Senator McElman: That earlier bill, Bill C-118, was entitled an act to amend the Income Tax Act and the Federal-Provincial Fiscal Arrangements Act, and it established the principle on which this bill is founded. The debate on that bill in both houses, in the media and the country, waxed hot. The minority Pearson government was in office. The government was under great pressure from diverse factions over Bill C-118 as well as other issues. A general election was in the wind and, indeed, it came about four months later, on November 8 of that year.

I think those things are worth stating at this point because they are related to what we are considering today. A goodly number of senators who are here today were in Parliament at that time and some of them who intervened in this debate would seem to have forgotten their involvement in 1965.

Senator McIlraith was President of the Privy Council and Government House Leader in the Commons when Bill C-118 was piloted through there. Senator Hayden was then, as now, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, and also the sponsor in the Senate of the bill on second reading.

Senator Cook, Senator Walker and Senator Beaubien, who have spoken in this debate, were also on that committee at that time. Senator O'Leary and Senator Flynn carried the debate on this bill in the house, and the opposition to one particular aspect of it in both the house and in committee. In recent days, I have been reading the debates of both houses on that occasion. I would urge other senators who, like myself, were not here at that time, to do the same in order to get Bill C-58 in proper perspective.

I wish to use a number of quotations from those debates today. In this current debate, several honourable senators have spoken glowingly and perhaps, one could almost say, patriotically of *Time* Canada being a Canadian magazine. They have quoted others to support the view that it was, indeed, the best Canadian magazine.

Senator Flynn: That is what Senator Davey said in his report.

Senator McElman: Let me call a witness to the contrary. I would quote the Right Honourable John G. Diefenbaker, as reported at page 2425 in the *Debates* of the House of Commons of June 15, 1965. He said:

> Well, what about *Time* magazine? Read *Time* magazine week by week. As the hon. gentleman who preceded me said, it masquerades as Canadian but it has only four or six pages of Canadian news in the Canadian edition. Canadian? Read the articles, and read the degree to which, week by week, *Time* magazine views Canadian problems from the point of view of the government of the day. Is the government fearful of the control of Canadian thinking by another country? On the occasion when I visited Commonwealth coun-

> tries, Mr. Chairman, I found one item in *Time* magazine during that entire trip which had to do with Canada, and it was in miscellany. Canada gets less attention than does a republic with a population of 300,000.

That was John Diefenbaker and, honourable senators, on that subject I agree with him.

I would now quote from Senate *Hansard* of June 28, 1965, at page 281. The speaker was Senator Grattan O'Leary, one of the finest journalists Canada has ever produced, and Chairman of the Royal Commission on Publications of 1960 and 1961. I would say he is an expert witness. He said:

> ... I do want to deal briefly with what are known as Canadian editions represented by *Time* magazine and *Reader's Digest*.
>
> A Canadian edition, so-called, is a periodical whose editorial content is lifted in whole or in large part, from a parent edition outside Canada, and then used in Canada to attract Canadian advertising. In other words, outside or foreign editorial matter is dumped into Canada—in fact, is dumped into Canada in a way that adds up to the most vicious form of dumping.
>
> The truth is that the printing of "Canadian editions" is not a publishing endeavour at all; it is an importing business. Businessmen discovered that editorial material developed for foreign markets could be re-used as a structure to entice Canadian advertising. With a product already paid for by a market ten times larger and twelve times wealthier, the businessman need only set up offices for the solicitation of advertising. And that is exactly what was done.

● (1420)

As Benjamin Franklin wrote so many years ago in his *Advice to a Young Tradesman*, "time is money." He was well ahead of his time. Others have since added to that, "and money is power."

Emerson, in his *Society in Solitude* also wrote words that would be echoed by those Canadian periodicals which have been either bankrupted or diminished by *Time* Canada's unwanted, or, rather, unwarranted advantage over them.

Senator Flynn: "Unwanted," I think is correct.

Senator McElman: Emerson wrote: "The surest poison is time."

Senator O'Leary said much more in 1965 on this whole subject and I will quote further from his remarks later. But last evening Senator Manning further diminished the proposition that *Time* Canada was a Canadian magazine when he said that one did not read *Time* for its so-called Canadian section but rather for its greater content, giving a view of world affairs. Senator Manning was "right on" with those comments. He recognized *Time* Canada for exactly what it is: an American magazine giving an American viewpoint of world affairs. There is nothing wrong with that, and most of us do enjoy reading it. But the masquerade that it is really Canadian should certainly be removed and forgotten.

Before dealing with some of the other fantasies which have been developed, let me turn to what has become the nub of this question, as identified by some honourable senators.

Some have said that they are concerned with the principle of the bill; a very few have suggested that they will vote against second reading, which is, of course, approval in principle and not in administrative detail. The only trouble is that there have been almost as many interpretations of the principle as there have been speakers. Some obviously believe the bill to be without principle. The latter are very close to the truth, but in a sense other than they intended.

Bill C-58 does not, nor does it seek to, establish a new principle in law. Clauses 1 and 2 of the bill seek to restore to its fullness the principle established in Bill C-118 in 1965. It was established then, but then in the same bill subverted and compromised by the exemption, under the act, from the application of the principle to *Time* and *Reader's Digest*.

In my view this bill is a courageous and mature move to recover from that demeaning debacle of 1965. This bill says nothing about the required level of ownership of newspapers and periodicals, although one senator appeared to suggest that this bill would set that level at 75 per cent and then went on to state, "Whether that Canadian control should be 55 per cent or 75 per cent is not particularly important." Well, the requirement of 75 per cent ownership was established in 1965 in the early bill and remains unchanged. It is not in this bill. I would add that it is not only particularly important but is extremely important when dealing with the mass communications media of a nation.

This bill says nothing about the requirement that a Canadian newspaper or periodical cannot be accepted or operated under licence by its parent in the foreign country. That, too, was established in the law of 1965. This bill does not say that in order to be considered under the law as a Canadian issue a periodical must be printed, published and edited in Canada, and that its content must not be substantially the same as the content of one or more foreign periodicals. Those details of law were established with the passage of Bill C-118 in 1965. They each form part of a principle. They were the mechanics of implementing, or giving effect to, that principle. The principle that was then enunciated in law was best expressed by Senator O'Leary when, on June 28, 1965, at page 280 of *Hansard*, he quoted from the report of his royal commission as follows:

> Our sole purpose has been to find a way to guarantee for Canadians their own communications media.
>
> That guarantee, we are convinced, is vital. For while Canada and the United States may have the same basic cultures, they each at the same time have domestic and other tasks and problems—political, social and economic—which differ widely. Canada's particular responsibilities, her government, her constitutional structure, her ideals and aspirations, her memories and milestones, even her discords, are facts in her existence which cannot be approached understandingly or usefully by communications media owned or controlled in another country, even though that country be friendly. Only a truly Canadian printing press, one

> with the "feel" of Canada . . . can give us the critical analysis, the informed discourse and dialogue which are indispensable in a sovereign society.

Senator O'Leary went on to say:

> Our sole aim was to try to secure a climate of competition in which Canadian publications, serving Canada worthily in a vital area, should have a chance to survive.

That principle, so well enunciated, and so well expressed, in Bill C-118 of 1965 was immediately subverted by the exemption from it that was granted to *Time* and *Reader's Digest*. This exemption was not a matter of principle; it was a matter of government policy, and, I suspect, expediency, arrived at under the most extreme and, I suggest, improper pressure from outside Canada.

Let me call again upon Senator O'Leary. At page 282 of Senate *Hansard* of June 28, 1965, he gave his commission's definition of what should be considered a Canadian periodical. It included:

> —not a licensee of or otherwise substantially the same as a periodical owned or controlled outside Canada.

Senator O'Leary went on to say:

> And our main recommendation on that basis was . . . that the deduction from income by a taxpayer of expenditures incurred for advertising directed at the Canadian market in a foreign periodical, wherever printed, be disallowed.
>
> I ask you to note that the only interest affected by this recommendation was the businessman who dumps cheaply obtained editorial matter on the domestic market, thus diverting by cut-rate prices Canadian domestic advertising from Canadian media. But the right to own a press, and to print and distribute from it whatever is permissible under the law, was in no way trespassed. The commission's recommendations involved no regulation of the preparation, content or free-flow of the editorial material of foreign periodicals; the reader was in no way denied the periodical of his choice.

Neither is he today.

> Honourable senators, I ask you to note clearly what has happened. What has happened is that the government, by this legislation that is proposed here tonight (June 28, 1965) and approved by the Commons, has accepted the principle of our commission's recommendations, and then proceeded to make a mockery of the principle—to strangle the principle in its cradle.
>
> They say that deduction from income by a taxpayer of expenditures for advertising in a foreign periodical shall be disallowed; but then, almost in the next breath, they go on to exempt *Time* and *Reader's Digest*, the two principal perils to Canadian periodicals . . . and, in effect, to confer Canadian citizenship, for the practical purposes of this law, upon Mr. Henry Luce of New York City, and upon Mr. Dewit Wallace of Pleasantville, New York. These two gentlemen, owners of the so-called Canadian editions I have been describing, are in effect issued Canadian passports—given a green light to go ahead with their destruction of our Canadian periodicals.

[Senator McElman.]

● (1430)

A bit further on, in referring to these two, he said that "they"—meaning the government—"have locked the hen-coop door, but they have left two of the biggest foxes inside."

Then he went on to say:

> Honourable senators, this law was not for the purpose of protecting Canadian magazines and periodicals from American magazines that are not here. This law was to protect Canadian magazines from American competition which is here. But instead of doing that, they protect and perpetuate the two magazines which have brought about the destruction in our magazine industry, which I have already noted, and which in a few years, if I know what I am talking about, will have a more deadly effect than now.

And how right he was, honourable senators!

Then Senator O'Leary explained what damage the power and unfair advantage exercised by *Time* and *Reader's Digest* had brought to the Canadian magazine industry at that time. He said:

> I might add that since then—since our report—these two magazines, these two so-called Canadian editions, are now taking about 50 per cent of all consumer magazine advertising.
>
> In all, 15 of our periodicals publishing over 10 million copies a year have gone under between 1960 and 1965. I repeat that 15 of our periodicals publishing over 10 million copies a year have gone under between 1960 and 1965. When our commission was set up, nine magazines were regarded as being national. One died during the inquiry, and four have died since—two English and two French—and the total circulation has fallen from 3.5 million to 2.5 million.
>
> Even more disastrous is the revenue picture. Advertising revenue of Canadian periodicals has dropped $8 million, from $17 million to $9 million, or by 45 per cent. But, in the meantime, the Canadian editions, so-called, have had a gain of 26 per cent in circulation, and a gain in advertising of 2 per cent.

That was in the period from 1960 to 1965, and as all honourable senators are aware, and as it was explained statistically by Senator Davey recently, the situation has not improved during the period from 1965 to 1975.

Then Senator O'Leary turned his attention to the influence exercised by Mr. Henry Luce through the United States State Department. Mr. Luce had great influence at that time and Canada felt the brunt of it. Senator O'Leary said of that situation:

> There is the statement of the United States Under Secretary Ball, and of the Secretary of the Treasury, Dillon, in which they practically threatened retaliation if this measure were passed. I say to you that Ottawa has been placed in this ludicrous and false position of introducing legislation of this character, by pressure from Washington. I do not think there is any shadow of doubt about it; and if you read what members of the Liberal press are saying, you will see that they go even further than I do.

> Honourable senators, in conclusion, I say with all the earnestness I can command, that if this house votes for this legislation it will be voting for the proposition that Washington has a right to interfere in a matter of purely Canadian concern, and voting a probable death sentence on Canada's periodical press, with all that that can entail for our future voyage through history.

Honourable senators may recall that occasion as being not one of the proudest moments in Canadian history. We must also recall, however, that there was at the time an embattled minority government and an election only months away. Honourable senators who have claimed that Bill C-58 is an unfriendly act and an irritant will, I am sure, wish to remember this incident as an example of what really constitutes an unfriendly, unwarranted and irritating act by a neighbour.

But there is no need to live in fear of the United States. Times, not *Time*, have changed. They have really changed in the past ten years, and Mr. Luce and his great influence are gone. Many things have occurred to bring change to the attitude of the U.S. State Department and, indeed, the Executive, towards matters both internal and external—Viet Nam, Chile, Watergate, and publicized CIA activities and interference, both domestically and with internal affairs of foreign nations. All of these and other events have caused the American people increasingly to tell their government that might is not necessarily right; it is the American people who tell their government, not us. The result has been a shift of power back again from the Executive to Congress, which is good, and consequently to the people through their elected representatives.

I bring this viewpoint into the debate only because others have suggested that we should fear reprisals if this bill, as an irritant, were to pass into law. The United States is a great, generous and increasingly responsible nation and is not about to repeat a mistake of 1965, and I would suggest that Henry Kissinger is not about to come to Ottawa as an emissary of *Time* magazine.

In that debate of 1965, Senator Flynn was an active and forceful participant. He supported fully the speech of Senator O'Leary and then referred to the exemption for *Time* and *Reader's Digest* as follows:

> I say that in that way the government has completely destroyed the principle it intended to lay down in paragraph 1 of section 4.

He continued:

> I will certainly introduce an amendment to eliminate paragraph (2) of section 4, if others do not beat me to it. I hope that the committee will agree to recognize that *Time* and *Reader's Digest* certainly do not need charity and that we must not sacrifice beforehand the objective we endeavour to reach, in granting them this unjustified and unjustifiable special treatment.

And again I agree. Senator Flynn did, in fact, move his amendment in committee and, predictably, it was lost on straight party lines.

It should be said here that throughout that debate of 1965 the Opposition, spearheaded magnificently by Senator O'Leary and Senator Flynn, were united and adamant in their stand against the exemption for *Time* and *Reader's Digest* and, honourable senators, they were right.

Senator Flynn: In 1965.

Senator Lamontagne: Not always.

Senator McElman: The principle has not changed, senator. What they failed to accomplish then, the government now proposes in this Bill C-58. I congratulate the Opposition for their 20/20 foresight of 1965. It would appear, however, that several of their number who have spoken in this debate have now developed 40/40 hindsight, but they can take some comfort in the knowledge that they are obviously not alone; others have switched.

Having mentioned my very good friend Senator Beaubien, I would congratulate him on the tremendous vigour with which he delivered his usually pro-American remarks of the other evening. Let me say, in the very best of good humour, that as he reached the crescendo, I waited for the punch line that did not come. His last sentence surely should have been, "This bill is positively un-American."

● (1440)

Honourable senators, I will conclude my quotations from the 1965 debate with the remarks of Senator Hayden. In dealing with the propriety of the government's granting or withholding the deduction of advertising costs for income tax purposes, he said:

> What has been done by saying that a taxpayer who advertises in a non-Canadian publication is not entitled in certain circumstances to a deduction from his tax of the amount of money spent in this way, is completely within the jurisdiction of the federal Parliament because a deduction from income tax otherwise payable lies within the legislative right of the federal Parliament, which can say what amount shall be paid. Therefore the Government is on very strong, firm, legal ground in making that approach. Whether that sanction is too arbitrary is a matter of opinion. A sanction to have any value must be such that its violation will hurt the person violating it. In our method of operation I am not sure that persuasive sanctions work too well.

Honourable senators, I would interject here that 20 years of trying unsuccessfully to persuade *Time* and *Reader's Digest* to become truly Canadian periodicals is confirmation of the doubts expressed by Senator Hayden, who made this further remark:

> It has been suggested that such a sanction may be an interference with the freedom of the press. That, in my view, is nonsensical.

He closed his remarks, in sponsoring second reading of Bill C-118, with the following remarks:

> Once we accept the view, as we have in this Parliament, by the terms of the Broadcasting Act, which deals with another method of communication, and once we accept that it is important that the viewpoint or the approach to those publications should keep in mind the consideration that such means of communication should be dealt with in terms of Canadian viewpoint and Canadian education, then we must take whatever means are necessary to achieve that result. As I have said, I do not know whether this is the best

sanction available to us, but I have not heard of any others that even approach its value to assure the desired results.

Honourable senators, I hope I shall be pardoned for those extensive quotations from speeches by Senator O'Leary, Senator Flynn and Senator Hayden.

Senator Flynn: I do.

Senator McElman: I guess, senator, you are the one whose pardon I need at this point. However, they expressed so well the views I have held for years respecting *Time* Canada and *Reader's Digest*, and they expressed them so much better than I could.

Permit me to pose some situations which could be analogous to what we have permitted *Time* and *Reader's Digest* to do under the exemption privileges.

Let us take the hypothetical case of an American-owned subsidiary in the textile business in Sherbrooke, Quebec. It gains access to a continuing supply of dirt-cheap surplus production of bleached, finished textiles; it brings them into Canada in vast quantities, and employs a few Canadians to dye them in four colours—not four pages, but four colours—and to wrap and label them for the marketplace, as *Time* magazine has done. It can sell them pretty cheaply and very profitably, and so take away the market and the customers of two other textile businesses in Sherbrooke that are Canadian-owned and which employ hundreds of Canadians in a full textile operation with a much higher cost of production.

What should Canada do in such a case of dumping? Does this not remind us of *Time's* four Canadian pages and its labeled wrapper designating it as *Time* Canada?

Let us transpose that to the shoe manufacturing industry, and assume that an American-owned subsidiary brought in completed, good quality, surplus production—cheaply obtained shoes completed, that is, except for the punching of four eye-holes in each shoe and the insertion of laces, which Canadians would be permitted to do in Sherbrooke or elsewhere. Would we permit Canadian-owned competitors to go belly-up financially with the consequent unemployment and social dislocation? I think not.

Senator Flynn: Why not charge customs duty on editorial material? You should try that. That would be logical.

Senator McElman: Very logical. In such hypothetical cases as I have given we do protect Canadian industry and Canadian employment, but we have not with *Time* and *Reader's Digest* up to this point.

Senator Flynn: Why don't you charge customs duty on the importation of intellectual material?

Senator McElman: I am giving you a hypothetical case, which cannot happen because we protect against it, but we do not protect against *Time*—that is, we have not until now.

Senator Flynn: I suggest you have no imagination.

Senator Desruisseaux: Before the honourable senator goes on—

Senator McElman: Let us take the big jump. Perhaps the honourable senator will have patience.

Senator Desruisseaux: I wish merely to ask a question.

[Senator McElman.]

Senator McElman: That is fine.

Senator Desruisseaux: The hypothetical cases you mention can be solved in many ways and not in only one. I would ask: Are there not a number of answers to that?

Senator McElman: Doubtless there are. We have one before us.

Let us take a big jump into Windsor, Senator Laird's home town. I know we have the auto agreement, but let us forget that for the moment.

Senator Smith (Colchester): Oh yes.

Senator McElman: These are just hypotheses. In Windsor we have one of the Big Four auto makers, a great subsidiary of the American parent, which suddenly decides it has productive capacity in the United States far in excess of its share of the U.S. market and sufficient to also supply its share of the Canadian market. So it sends over to the Windsor subsidiary cars that are complete, except for the tires and a paint job. Canadians can install the tires and paint the cars, which can then be called Canadian cars, and we can tell the American-owned subsidiary that it is a good Canadian corporate citizen.

Since American production costs are still 6 per cent below ours, that company would probably increase its share of the Canadian market. We certainly would not want to "twist the American elephant's tail" by demanding an immediate end to such a practice, particularly if some of our American friends told us we were being "unfriendly," "irritating" and "picky" about it all; or if someone said, "Gosh, we have been doing that for 20 years. We are the only one of the big four getting away with it. Surely you would not want to stop us now, because we are your buddies."

I know Senator Laird and I admire him for his resourcefulness and ability, and particularly for his lifetime dedication to the people of Windsor. In such a situation I suggest to you that he would really raise hell—and so would all other Ontario and Toronto members in both houses, and so would all of us here. But, honourable senators, all we are talking about in those hypothetical situations is jobs—employment.

Senator Flynn: Not here.

Senator McElman: When we talk about the media—

Senator Flynn: You are talking about Canadian culture.

● (1450)

Senator McElman: When we talk about the media of mass communications in this country, we are not only talking about jobs, but something far more important—an independent, truly Canadian press, which, in the words of Senator O'Leary, is "indispensable in a sovereign society."

Senator Flynn: Culture and jobs are not always the same thing.

Senator McElman: We would all say that the hypothetical cases to which I have referred could not happen and would not happen; that, of course, the Government of Canada would not let them happen, no matter what it had to do to avoid such situations. In the same vein, I suggest we should now pass this bill and stop the same sort of thing happening in the Canadian periodical industry.

Senator Smith (Colchester): You were doing a lot better when you quoted from Senator Flynn.

Senator McElman: Well, I thought he was perhaps head-on with Senator O'Leary, and I do not pretend to be in the same class as either one of them, or, indeed, yourself, Senator Smith.

Senator Flynn: For a while, you were doing all right.

Senator McElman: If Bill C-58 passes, not only will *Time* still be available in Canada—it is still available now—but it will still be in business in Canada at the same old stand, churning out half a million copies a week for Canadian readers. The only difference is that the Canadian-made wrapper, the four or so pages dealing with Canadian news and events, has been dropped, thereby dispensing with the myth that it ever was a truly Canadian magazine. Not only is *Time* still publishing in Canada, it is, we are told through the media, publishing nine regional editions and is still selling Canadian advertising. One really cannot believe that it is doing so out of the goodness of its heart. I suggest that it is doing it for the same reason—profit—which is perfectly logical and legitimate.

Paper is cheaper at its locations in Canada, and paper is the largest element of cost in a pure printing operation. Other printing costs are also cheaper in Canada, as are postal rates. Also, the American parent's editorial content is still dumped into Canada at no cost. Given those facts, why would it be foolish enough to move its printing operation to the United States?

The most revealing fact in the continuing operation of *Time* in Canada is that it has reduced its advertising rate to Canadian advertisers by 50 per cent. It has cut its advertising rates to Canadian advertisers in half. Despite the proposed effect of Bill C-58, Canadian advertisers will still be able to advertise in *Time* at the same overall cost as previously.

Senator Flynn: No.

Senator McElman: That is a rather amazing revelation.

Senator Asselin: No, no.

Senator McElman: We now really know what an extraordinary profit-making operation *Time* has had all these years in Canada—

Senator Asselin: You are mistaken.

Senator McElman: —through the simple act, as Senator O'Leary said, of dumping into Canada all the cost-free editorial content of its U.S. parent, which gave it an unbeatable and unfair advantage over existing and prospective Canadian competitors in the periodical publishing field.

This one act by *Time* is proof positive that it has contituted grossly unfair competition in Canada, and that it was taking unconscionably high profits out of its operations in Canada. No further comment is necessary on that score.

The further fact that *Time* is now increasing its subscription rate to Canadian subscribers by 66⅔ per cent, while at the same time reducing its advertising rate to Canadian advertisers by 50 per cent, says something about *Time's* sense of values, and also its very determined sense of purpose.

It is my opinion that *Time* has no intention of leaving Canada. I believe that as soon as the smoke and dust settle, *Time* will undertake to meet the specifications required for recognition under the Income Tax Act as a Canadian periodical, as it is quite capable of doing, in my opinion, and as it is quite welcome to do.

Senator Flynn: What will be the end result?

Senator McElman: If that should be, *Time* would then be on the same footing as all other Canadian periodicals and, for the first time, it would be competing without the benefit of unfair advantage under Canadian law.

With respect to *Reader's Digest*—

Senator Smith (Colchester): That is a little tougher.

Senator McElman: —it has been suggested that *Time* and *Reader's Digest* are indentical situations, and that the one is being treated harshly while the other is receiving preferred treatment. I do not agree. *Time* is a news magazine and is published weekly. Its content is news. Its time-frame for publication of news makes the criteria of being "not substantially the same" as its parent publication, admittedly, difficult, but not insurmountable. *Reader's Digest* is not a news magazine. As its name suggests, it is, for the most part, a digest of material already published elsewhere. It publishes monthly, not weekly, and its deadlines are much less onerous than those of a weekly news magazine. By reason of its different content and different time-frame for publication, *Reader's Digest* finds it much easier to meet the proposed requirements under the Income Tax Act, as given effect to by Bill C-58.

Reader's Digest has chosen to meet the proposed requirements and to become a Canadian publication, and that is good. By so doing, it will, for the first time, be treated exactly the same as any existing or prospective digest in Canada, and will no longer enjoy special benefits or special privileges.

It must be remembered that under the proposed amendments contained in Bill C-58, Canadian advertisers wishing to solicit a primarily United States market for their products or services may still deduct such advertising expenditures as expenses for income tax purposes. There is no change in that respect. For example, many New Brunswick outfitters for fishing and hunting camps advertise widely in American newspapers and periodical for clients, or "sports," as they are called locally, and they will continue to do so and to deduct such expenditures when calculating income tax. I am sure there are many similar situations across Canada.

It should also be remembered that in 1965, when the original amendments in this area were made to the law, the full set of principles was made applicable to all newspapers as well as to most periodicals. At that time, there were several weekly newspapers I believe, in western Canada that had already fallen under the control of American owners, and others were similarly threatened. The latter, of course, were no longer in danger with the coming into force of the 1965 amendments. To the best of my recollection, none of those newspapers were closed down, so they must have been able to meet the full set of specifications as is now proposed to apply to *Time* and *Reader's Digest*.

Contrary to the experience of some honourable senators, let me say at this point that many Americans with whom I come in contact appear to understand clearly that Canada is an independent nation, with very real national goals and interests. They respect us for our independent spirit; they appreciate us as their greatest trading partner, and cherish our long and continuing friendship, as we do theirs. They do not expect us to be apologists for our own nation and its legitimate interests in order to keep or gain that friendship. I would only add that American elected representatives with whom I have come in contact, in private rational discussions, react in exactly the same fashion.

Let me now make a suggestion for the assistance of those honourable senators who have indicated that they are perhaps embarrassed when their American friends and associates complain to them. If their American friends persist in saying that the legislative effect of Bill C-58 on *Time*, for example, is an unfriendly act, please ask them about the "manufacturing clause" in the United States Copyright Act, which operates as a most effective non-tariff barrier against the importation of Canadian printed matter. That section of the United States Copyright Act withholds copyright protection from Canadian publications in quantities over 1,500 copies which are not printed in the United States. Canadian law does not, as I understand it, provide for a similar non-tariff barrier against United States publications—

● (1500)

Senator Flynn: It is a good suggestion, though.

Senator McElman: —as anyone can easily see by looking at the shelves in Canadian bookstores and magazine counters. So, to those honourable senators who face such embarrassing criticisms, I would simply suggest that they should not be embarrassed; just ask the right questions in reply.

Finally on periodicals, let me read into the record a letter addressed to me from the Canadian Periodical Publishers' Association. I believe all honourable senators received such a letter. It is dated February 26, and is signed by Mr. S. Taylor-Munro, Executive Co-ordinator:

> We are writing to request your support for Bill C-58, and the intention to remove exemptions granted to foreign publications under Section 19 of the Income Tax Act. We are an association representing 124 small and medium-sized Canadian magazines. Opponents of this Bill have argued that it will not assist magazines such as ours to gain more advertising revenue. Our experience contradicts that argument. Even with the Bill not yet proclaimed, the advertising community is already responding by increasing expenditures in our member publications, while reducing placements in the foreign magazines affected by Bill C-58.
>
> Critics have charged that this Bill constitutes censorship. We do not believe an objective and reasoned judgment would offer a shred of support for such a claim. The sole purpose of the legislation is to assist Canadian magazines in gaining Canadian advertising. No one would be prevented from publishing anything in Canada, nor is any control even suggested over the public's access to foreign publications. The question is not who will be allowed to publish, but who will be assisted.

[Senator McElman.]

> Section 19 has been in effect since 1965. No Canadian or foreign magazine has suffered from censorship in any form under the existing legislation. No Canadian or foreign magazine will suffer from censorship once Bill C-58 becomes law.
>
> Passage of this Bill will ensure the achievement, for the first time, of the intent of Section 19. We therefore urge adoption of Bill C-58 as a positive and appropriate measure in support of Canada's periodical industry.

As I said, that letter is from the Canadian Periodical Publishers' Association.

Senator Smith (Colchester): Completely disinterested, I suppose.

Senator McElman: I should not expect so. If they were disinterested they would be a lot less intelligent than I consider them to be. Indeed, they should be interested, as many other Canadians are interested, in this bill, pro and con.

I turn now to broadcasting, clause 3 of Bill C-58, and the many millions of dollars spent by Canadian advertisers through United States border television stations. The annual total of such expenditures is currently some $20 million, and is increasing. By far the largest portion of this amount of $20 million is spent with the United States television station KVOS, Bellingham, Washington, and the three United States stations in Buffalo, New York, plus five United States stations in Detroit.

However, there are also similar situations in other border areas where the dollar volume is much smaller but nonetheless of relevant importance to the Canadian stations involved in those smaller markets. I can think of one, of course, immediately, which is WAGM-TV at Presque Isle in the State of Maine, which is 15 miles from the New Brunswick border. It competes for Canadian advertising dollars against the two New Brunswick stations, CHSJ in Saint John, which is a CBC affiliate, and CKCW in Moncton, which is a CTV affiliate, which also serve the mid-upper Saint John River Valley of New Brunswick.

Bill C-58 proposes to eliminate the deductibility of such advertising costs for income tax purposes where such Canadian advertising on United States broadcasting stations is directed primarily to a market in Canada.

Attempts have been made in this debate, and during the earlier debate in the House of Commons, to suggest that this is just another unfriendly, ultra-national irritant directed at the United States. Honourable senators, I say to you that such a suggestion is pure, unadulterated nonsense.

Station KVOS in Bellingham, Washington, was put together with one basic purpose in mind—to beam its signal to, and sell its lucrative advertising time to, and reap immense profits from, the Vancouver market.

At the same time, while growing wealthy off Canadian advertising dollars, it can circumvent Canadian law, by which Canadian broadcasters in the competitive Vancouver market must abide, as expressed in the Broadcasting Act. Secondly, it can circumvent the efforts of the CRTC to enforce Canadian law and regulations to which Canadian licensees are subject, and which are much more stringent than the regulations to which United States stations are subjected. Thirdly, it is able to circumvent the full effect of

the Canadian Income Tax Act with respect to revenues and profits derived almost totally from Canadian advertisers. Fourthly, it is able to use those profits from Canada to develop and improve a United States broadcasting unit. And fifthly, it has effectively delayed the emergence of other Canadian television stations in southern British Columbia.

In those circumstances, honourable senators, does anyone really seriously suggest that the remedial action proposed by Bill C-58 is either unfriendly or unfair? The situations at Buffalo versus Toronto, Detroit versus Windsor, and at other points along that long Canada-United States border are similar, although not so pronounced as with KVOS. Those stations, of course, were not established to serve just the Canadian market. But in all cases profits derived from Canadian sources are being used to improve United States stations, to the continuing detriment of existing and prospective Canadian stations.

If we are to demand that existing Canadian TV stations improve their content and product, as we do; if we are to demand that every reasonable and financially viable opportunity be given, through careful licensing, to encourage the establishment of further Canadian TV stations, to improve talent and programming, and to provide varied and different voices and opinions for Canadian viewers, without unfair competition under our law, as we do; if we are to plug the substantial drain of otherwise taxable Canadian advertising dollars, in subversion of our own Income Tax Act, into the coffers of another nation, as has been occurring for years, as we should; if we are to do these things, all of which are desirable, then I suggest we should pass Bill C-58. And that is not an unfriendly act towards the United States, despite the protestations to the contrary by the affected United States broadcasting stations and their supporters.

Honourable senators, it is a fact that those United States television broadcasters have sat serenely and contentedly for years reaping the substantial windfall profits from Canadian advertising, without any approaches to Canada to correct the inequities that were involved. But with the advent of Bill C-58 there has developed a rash of activity on their part. They are anxious to bring fairness and sweet reason into cross-border broadcasting and advertising.

● (1510)

I refer now to a Canadian Press story out of Ottawa, as published in the *Telegraph-Journal* of Saint John, New Brunswick, on Friday last, March 19. The lead paragraph reads as follows:

> American broadcasters are said to be looking at branch plant advertising operations in Canada as a possible solution to the prolonged Canada-U.S. border television war.

The story goes on to relate that representatives of television stations in Buffalo, New York and Bellingham, Washington conferred privately, on Friday last, with senior officials of the CRTC; that officials on both sides confirmed that American broadcasters are now willing to pay Canadian taxes, and possibly make contributions to domestic Canadian programming, on advertising to be sold in Canada.

The story goes on to relate that KVOS Bellingham, which receives about 90 per cent of its annual revenue from Canadian advertisers, has offered to invest at least $2 million a year in domestic Canadian programming. Apparently our negotiators are now negotiating on, at least, an equal footing. They are finding a new will to bargain on the other side.

Honourable senators, is any further proof of the efficacy of Bill C-58 needed?

One should stress that like clause 1 and clause 2 of the bill, clause 3 does not constitute new principle. It is merely an extension of the principle enacted into law in 1965—an extension to broadcasting of the same principle that now applies to newspapers and periodicals. Fair treatment of broadcasting stations, such as KVOS Bellingham, can be accommodated by delayed proclamation of this clause as provided in the bill.

Honourable senators, it is not easy for governments to provide totally acceptable answers to complex problems, particularly when foreign involvements are present and of long-standing, as in these instances. It is more productive and useful to work at finding answers than to simply beg the questions. The government has opted for action, by producing this yet imperfect bill.

Senator van Roggen has spoken constructively in favour of getting Bill C-58 into committee where more information can be obtained and further progress achieved in seeking improved solutions. I, too, will vote in favour of the bill on second reading.

Senator Hayden: Would my honourable friend permit a question or two?

Senator McElman: Certainly.

Senator Hayden: You referred to Bill C-118 of 1965, and made reference to Bill C-58, which is before us. I assume that I am right in thinking the intention was to compare the two bills?

Senator McElman: No, senator, it was not to compare the two bills. I suggested in my remarks that Bill C-118 of 1965 was the mother of the bill now before us.

Senator Asselin: What happened to the father?

Senator McElman: It could have been an abortion.

Senator Hayden: That is your word.

Senator McElman: I am sorry, Senator Hayden, I was speaking to my friend across the way.

I suggested that Bill C-118 tried to establish what, in my view, is a very sound principle and then it made an exception to it. I said that it is the mother of this bill because the bill we have before us now in its first two clauses seeks to correct, or change, or remove the exemptions of Bill C-118.

Senator Flynn: Correct the abortion.

Senator Langlois: That is the *Morgentaler* amendment.

Senator Hayden: In Bill C-118 the exemptions are provided for, and there is no reference to broadcasting. Yet, in Bill C-58 which is now before us, the exemptions provided in Bill C-118 are repealed, and, in effect, levelling the same basis of taxation on broadcasting, in certain circumstances, as on printed items. If you call Bill C-118 the mother of Bill C-58, the mother has an entirely different face. Is it your

view that it does not make any difference whether the exemptions are in or out of Bill C-58 and Bill C-118?

I suggest you would have a very difficult time—and I would like to hear what you have to say—in establishing motherhood as between those two bills.

Senator Smith (Colchester): Perhaps they had a different father.

Senator McElman: Far be it from me to try to argue long precedent or anything else with Senator Hayden. I realize I am out of my ball-park entirely.

This is one of the reasons I want the bill referred to his committee, where he can help us and guide us, and have officials present to assist us in finding those answers.

I feel the principles established for newspapers—not just periodicals, senator—newspapers and periodicals in Bill C-118 are not different from what is now being established for broadcasting. Perhaps we have a stepdaughter here.

Senator Hayden: When we get into genealogy of that sort, it is reaching a long distance to get a supporting argument for what you have to say. If I were to say to you, "Do you agree with that statement?" you might very well say no. Would you agree with this statement then: Any argument that can be advanced, is quite proper to advance if you can get some yardage out of it?

May I go on and say there is an old saying that words should not be read out of context. I ask you whether I am right when I say that in my explanation of Bill C-118 in 1965 you will not find a wholesale endorsement of the bill.

Senator McElman: Of course not.

Senator Hayden: I am trying to figure out why I was brought into it, except in an attempt to indicate that I had two different positions, one in 1965 and one in 1976. I do not think you can find that is so.

I would like to read the last statement I made before I sat down, which was:

> As I have said, I do not know whether this is the best sanction available to us, but I have not heard of any others that even approach its value to assure the desired results.

Now, what were the desired results? The desired results were the results achieved by Bill C-118, is that not right? Is that not what I was talking about? That is what I thought I was talking about.

Senator McElman: I cannot answer you while you are on your feet, senator. I do not wish to debate with you, but if you put questions to me, I shall try to answer them. I believe you referred to my taking something out of context for a purpose. Let me assure you that I did not, and I would not try to take anything that you said out of context in order to bring forth a purpose other than that intended by you. I certainly did not, and I certainly would not, try to do that. If you have that reaction, I am very sorry and I apologize.

I repeat that I have no intention of trying to debate the point with you, sir. If you have questions, I shall try to answer them.

[Senator Hayden.]

On motion of Senator Rowe, debate adjourned.

● (1520)

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—SECOND READING

The Senate resumed from Monday, March 22, the debate on the motion of Senator Molgat for the second reading of Bill S-33, respecting United Grain Growers Limited.

Hon. John M. Macdonald: Honourable senators, Bill S-33 is not too complicated. As the sponsor pointed out, the purpose of the new subclause is simply to increase the authorized capital of the company, the United Grain Growers Limited, from the present limit of $12 million to $25 million.

There is nothing much I should like to add to what the sponsor has already said except to indicate in a few brief remarks my general support for the bill.

The original act of incorporation was in 1911, and that together with the various amendments made since that time tell an interesting story. I first heard of this company many years ago when producers' cooperatives were being organized in eastern Nova Scotia. This company was held up as a type of model to show what producers could do when they organized in a cooperative venture to market their own produce.

As the sponsor mentioned, the original name of the company was Grain Growers Company Limited. Under that name the company had been organized under the Manitoba Joint Stock Companies Act. When the federal incorporation took place the federal company acquired all of the assets and liabilities of the company. It was in 1917 that the name was changed to United Grain Growers Limited.

The original act set forth two cooperative principles. One was that there would be one vote per member, not one vote per share. That principle has been retained all through the years, despite what might be called basic changes, as it were. As the company grew and developed, it became desirable to replace the ordinary meetings of shareholders by regional meetings at which delegates were elected to attend the annual meeting. That practice is now common to these large cooperatives.

The second principle was that membership would be restricted to those in the business. In this case it is practically restricted to farmers and their spouses, although provision has been made for certain other people to become members.

To assist the company in its growth and development the act was amended several times—in 1915, 1917, 1918, 1940, 1950 and 1966—and we now have the latest proposed amendment before us.

These amendments reflect the growth in the company and especially its need for more capital. As I said, the present bill would increase the authorized capital of the company from $12 million to $25 million, and in itself that shows what a tremendous growth has taken place in the company. The original share capital was $2 million, which was divided into shares at $25 each. The amendment in 1917 increased that amount to $5 million. In 1941 the company was authorized to divide the shares into two or

more classes, and consequently the shares were divided into class A and class B shares. The 1966 amendment increased the share capital to $12 million, divided into 550,000 class A shares with a par value of $20, and 200,000 class B shares with a value of $5 each. The schedule to the amendment sets out the restrictions on the rights of the two classes of shareholders. Generally speaking, the class A shares provide the capital without conveying any voting rights, whereas the class B shares are actually the membership shares. The class B shareholders are the ones who have actual control of the company. It would appear that they have found the class A shares a desirable means of financing the company at a reasonable cost.

I do not profess to have any detailed knowledge of the workings of the company, honourable senators, but I am sure when their officials come before us they can give us an interesting outline of the way in which this company, since its inception in 1911, has grown and developed to hold what at present might be called the predominant position in the grain business of Canada. In view of the fact that the company has been so successful over the years, it would seem appropriate to encourage it even further by passing this amendment.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Petten moved that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 1937*)

THE ESTIMATES

REPORT OF STANDING SENATE COMMITTEE ON NATIONAL FINANCE ON SUPPLEMENTARY ESTIMATES (B)

Wednesday, March 24, 1976.

The Standing Senate Committee on National Finance to which the Supplementary Estimates (B) laid before Parliament for the fiscal year ending the 31st of March 1976 were referred, has in obedience to the order of reference of Wednesday, March 3rd, 1976 examined the said Estimates and reports as follows:

1. In obedience to the foregoing, the Committee made a general examination of Supplementary Estimates (B) and heard evidence from the Honourable J. Chrétien, President of Treasury Board, Mr. B. A. MacDonald, Deputy Secretary, and Mr. R. L. Richardson, Assistant Secretary, Program Branch, Treasury Board.

2. Through these Supplementary Estimates (B) $921 million in adjustments will be added to the costs of existing programs and some accounting adjustments will be made. This sum added to the Supplementary Estimates (A), $1,751 million, and to the Main Estimates, $29,585 million, bringing the total Estimates for the fiscal year ending March 31st, 1976 to $32,257 million. The Committee notes that the original Main Estimates have therefore been increased through Supplementary Estimates (A) and (B) by a total of $2,672 million, that is, by 9 per cent. Although this percentage increase is considerably less than the 21 per cent increase added through Supplementaries to the Main Estimates for 1974-75, the Committee continues to be concerned by the size of the Supplementary Estimates in relation to the Main Estimates. This has been consistently high for some years as shown by the following table.

PERCENTAGE INCREASE OF SUPPLEMENTARY ESTIMATES IN RELATION TO THE MAIN ESTIMATES

(millions of dollars)

Fiscal Year	Main Estimates	Supplementary Estimates	Percentage Increase
1969-70	12,467	349	2.8%
1970-71	13,752	930	6.8%
1971-72	15,341	1,306	8.5%
1972-73	16,539	1,726	10.4%
1973-74	19,287	2,125	11.0%
1974-75	23,297	4,936	21.0%
1975-76	29,585	2,672	9.0%

The Committee accepted assurances from the President of the Treasury Board that he shares the Committee's concern, that he has already set an upward limit of $1,500 million as a target for the allocation of funds through Supplementary Estimates in the next fiscal year, 1976-77.

3. The President of the Treasury Board described the negotiations with departments through which the increase in total expenditures for 1975-76 over 1974-75 have been held to 16 per cent. It is his intention to at least maintain, and if possible to further reduce, the percentage level of increase in future years. The effect of this action forces government departments to take a hard look at the priorities of their existing programs. The Committee approves of this restraint action. It suggests that consideration be given to the requirement by the Treasury Board that departments catalogue all their programs and rank them in order of priority on the basis of real usefullness, that when new programs are proposed they be provided for, whenever possible, by a readjustment of priorities. The Committee considers that in spite of undoubted difficulty in persuading departments to make such assessment, continued pressure on them to do so is desirable.

4. Turning specifically to Supplementary Estimates (B) the larger items are as follows:

(a) Payments in connection with the Two-Price Wheat Program which is intended to keep the price of bread down $186 million
(b) Public Debt Charges $155 million
(c) Payment to the Old Age Security Fund to cover the final deficit which is due mostly to indexing $114 million
(d) Various fiscal transfers to the provinces $113 million
(e) Payments to the provinces to cover the federal share under provincial welfare plans $107 million
(f) Payment to compensate the railways for operating unprofitable services to the public $40 million
(g) Payment to the Canadian National Railway for the deficit arising in the calendar year 1975 in respect of the Canadian National Railway System $35 million
(h) To set up a drawing account for temporary advances in the operation of the National Defence Program $26 million
(i) Payment of the federal share of the provinces' university education costs $24 million
(j) An amount to provide for forgiveness of an old loan to Romania $23 million
(k) Payments for price support to farmers $22 million

5. The Committee discussed the criteria for the forgiveness of the $23 million loan to Romania which dates from World War I and other similar loans with the Deputy Secretary of the Treasury Board. It was told that there are no established criteria for dealing with long outstanding loans, that an active and continuous attempt is made to recover them. When the best possible agreement is reached the remainder is put forward to Parliament to be written off. In effect a receivable is reclassified as a bad debt and dealt with.

6. The Treasury Board supplied the Committee with a list explaining forty-five $1 items in the Supplementary Estimates (B). This list is attached as Appendix (A) to this report.

7. As in the past the Committee was disturbed by one aspect of these $1 items. A substantial number of them authorize the provision of funds for unanticipated operating expenses through the deferral of capital projects. It is always preferable that the funds required be met by transfer within the authorized vote. As already pointed out, this forces departments to look after their essential programs. The Committee objects to the deferment of capital projects in this manner because most of them will eventually be proceeded with and will then require a substantially increased total expenditure due to the continued rise in construction costs. The Committee had similar objections to the authorization through $1 items of the use of funds provided for grants and contributions. Many of these grants also relate to construction projects.

Respectfully submitted.

H. Sparrow,
Deputy Chairman.

(*Appendix A to report*)

EXPLANATION OF ONE DOLLAR ITEMS IN SUPPLEMENTARY ESTIMATES (B), 1975-76

SUMMARY

The one dollar items included in these Estimates have been grouped in the attached schedules according to purpose.

A. One Dollar items which authorize transfers from one vote to another—27 items.

B. One Dollar items which authorize the payment of grants—9 items.

C. One Dollar items which authorize the deletion of debts due the Crown—4 items.

D. One Dollar items which authorize financial guarantees—1 item.

E. One Dollar items which amend the legislative provisions of previous appropriation acts—3 items.

F. One Dollar items which amend acts other than appropriation acts—1 item.

March 2, 1976
Estimates Division

SCHEDULE A

ONE DOLLAR ITEMS WHICH AUTHORIZE TRANSFERS FROM ONE VOTE TO ANOTHER—27 ITEMS.

AGRICULTURE—CANADIAN DAIRY COMMISSION

Vote 50b—To authorize a transfer to this Vote of $59,999.

Explanation—Additional funds are requested to cover increased costs for rent and communications; to provide for costs being incurred to support Canadian initiatives in promoting the sale of Canadian cheese in the European Common Market and to provide for certain building modifications.

Source of Funds—Vote 1—($59,999)—Funds are available as the result of lower than estimated administration charges for the Land Transfer function of the Small Farm Development Program.

EXTERNAL AFFAIRS

Vote 1b—To authorize a transfer to this Vote of $2,685,999.

Explanation—Additional funds are required to:

(1) provide for a shortage of $2,039,000 resulting from foreign currency revaluations and increased inflation rates abroad;

(2) cover tenant service costs ($461,000) for the headquarters building in Ottawa and for accommodation in Britain; and

(3) meet operating costs ($186,000) of the long range accommodation program of the Department.

Vote 20b—To authorize a transfer to this Vote of $200,999.

Explanation—Additional funds are required to cover increased costs of Canada's participation in the 1975 Okinawa International Ocean Exposition, resulting from unforeseen expenses on pavilion improvements and from the high rate of inflation in Japan.

Source of Funds—Vote 5—($2,886,998)—Funds are available due to a delay in the acquisition of a site for the new Chancery in Washington.

JUSTICE

Vote 1b—To authorize a transfer to this Vote of $939,999.

Explanation—The additional funds will be used to:

(1) provide for operating costs ($430,000) of the Committee on the Operation of the Abortion Law;

(2) cover the cost of tenant services ($213,000) provided by the Department of Public Works;

(3) meet the cost of the Inquiry into the crash of a Panarctic Oils Limited aircraft ($100,000); and

(4) provide for an increase in contractual costs ($149,000) for the Judge's language training and for costs ($48,000) incurred in the preparation of gun control legislation.

Source of Funds—Vote 10—($939,999)—Funds are available due to reductions in grants and contributions.

Vote 15b—To authorize a transfer to this Vote totalling $253,999.

Explanation—The additional funds will be used mainly to:

(1) provide for the increased costs ($172,000) incurred in printing of the Supreme Court of Canada reports; and

(2) assist with the cost ($72,000) of a symposium to celebrate the Centenary of the Supreme Court of Canada which was held last September.

Source of Funds—

Vote 10—($57,999)—Funds are available due to reductions in grants and contributions.

Vote 20—($162,000)—Funds are available as the result of provincial charges for use of staff and facilities being less than expected.

Vote 30—($34,000)—Funds are available from the Tax Review Board because expenditures will be less than expected.

Vote 25b—To authorize a transfer to this Vote totalling $380,999.

Explanation—To provide mainly for the cost of completing and publishing the reports and other materials prepared during the initial phase of the Law Reform Commission.

Source of Funds—

Vote 5—($35,999)—Expenditures for investigation and research under the Canadian Judicial Council will be less than expected.

Vote 10—($211,000)—Funds are available due to reductions in grants and contributions.

Vote 30—($134,000)—Funds are available from the Tax Review Board because expenditures will be less than expected.

MANPOWER AND IMMIGRATION

Vote 1b—To authorize a transfer to this Vote of $754,999.

Explanation—Additional funds are requested to cover increased program operating costs and for the cost of contract audit services provided by the Department of Supply and Services.

Vote 5b—To authorize a transfer to this Vote of $10,866,999.

Explanation—Additional funds are requested for the purchase of occupational training from the provinces, ($8,523,000), for the purchase of language training for Chilean and Vietnamese refugees ($1,700,000) and for the Department's portion of the Federal Labour Intensive Projects Program ($644,000)

Vote 20b—To authorize a transfer to this Vote of $725,999.

Explanation—Additional funds are requested to cover the production costs of the publications Careers-Canada and Careers-Provinces which provide career and occupational guidance information to students and new entrants to the labour force.

Source of Funds—Vote 10—($12,347,997)—Canada Manpower Training Program allowance payments and other contributions will be less than originally forecast.

NATIONAL DEFENCE

Vote 5b—To authorize a transfer to this Vote of $12,999,999.

Explanation—Additional funds are required to:

(1) provide $11,000,000 for 1975-76 expenditures on the Long Range Patrol Aircraft project which were not provided in Main Estimates; and

(2) provide $2,000,000 for the procurement of capital commodities required in support of the 1976 Olympics.

Source of Funds—Vote 1—($12,999,999)—Funds are available as the result of economies effected in operations and maintenance activities within the program.

NATIONAL HEALTH AND WELFARE

Vote 25b—To authorize a transfer to this Vote of $699,999.

Explanation—To meet increased operating expenditures of the program for the balance of the current fiscal year.

Source of Funds—Vote 20—($699,999)—Revisions to two capital projects originally scheduled for construction in 1975-76 have forced deferment and have made funds available for this transfer.

PUBLIC WORKS

Vote 10b—To authorize a transfer to this Vote of $4,699,999.

Explanation—To provide for the increased costs of managing properties and for escalation clauses in leases.

Vote 20b—To authorize a transfer to this Vote of $999,999.

Explanation—Additional funds are required to meet costs incurred in carrying out essential maintenance projects such as wharf repairs at Baie-Comeau, Île-aux-Coudres and Tadoussac and maintenance dredging projects at Bathurst, Dalhousie and Saint John, N.B.

Vote 40b—To authorize a transfer to this Vote of $999,999.

Explanation—To carry out emergency repairs to the New Westminster Railway Bridge which was damaged by a runaway barge.

Vote 45b—To authorize a transfer to this Vote of $198,999

Explanation—Additional funds are required for operation and maintenance of properties at Moosonee, Ontario, transferred to the Department from the Department of National Defence.

Source of Funds—Vote 15—($6,898,996)—Funds are available due to unforeseen delays in construction projects.

SECRETARY OF STATE

Vote 15b—To authorize a transfer to this Vote of $404,999.

Explanation—Additional funds are required to:

(1) provide a further $50,000 towards the cost of a study on the Canadian Film Industry.

(2) to defray the cost of the visit of the Prince of Wales last April ($265,000) and the cost of preparations for the Queen's visit to Canada during the July 1976 Olympics ($90,000).

Source of Funds—Vote 20—($404,999)—Funds are available since all of the grants provided to construct, expand or improve facilities for the performing arts in Canada will not be used ($354,999) nor will the proposed grant to Massey Hall be paid in this fiscal year.

SECRETARY OF STATE—COMPANY OF YOUNG CANADIANS

Vote 65b—To authorize a transfer to this Vote of $619,999.

Explanation—Additional funds are required by the Company to meet closing-out costs such as four months severance pay to permanent employees in accordance

with collective bargaining agreements and one month severance pay to volunteers.

Source of Funds—Vote 10—($619,999)—Funds are available since bilingualism contributions, summer language bursuries and assistance to associations of independent schools will be less than forecast.

SECRETARY OF STATE—NATIONAL MUSEUMS OF CANADA

Vote 90b—To authorize a transfer to this Vote of $999,999.

Explanation—Additional funds are required to provide for the cost of 38 additional man-years for the Corporation's own security force and to finance the extension of the present contractual arrangement so as to ensure adequate protection while new officers are being trained.

Source of Funds—Vote 95—($999,999)—Funds are available because grants are no longer paid in advance of actual need.

SOLICITOR GENERAL

Vote 1b—To authorize a transfer to this Vote of $499,999

Explanation—To provide for a Special Communications Unit, responsible for informing the public concerning the peace and security program of the government.

Source of Funds—Vote 10—($499,999)—Funds are available because of unforeseen delays in the Penitentiary Service construction program.

SOLICITOR GENERAL—CORRECTIONAL SERVICES

Vote 15b—To authorize a transfer to this Vote of $130,999

Explanation—Additional funds are required for payments to Community Residential Centres and for the maintenance of day parolees.

Source of Funds—Vote 10—($130,999)—Funds are available because of unforeseen delays in the Penitentiary Service construction program.

TRANSPORT

Vote 1b—To authorize a transfer to this Vote of $1,049,999

Explanation—Additional funds are required to cover the cost of the Inquiry into Air Canada's financial activities, organizational changes needed to further develop and implement the National Transportation Policy announced on June 16, 1975 and to cover the costs of increased services.

Source of Funds—Vote 45—($1,049,999)—Funds are available because of delays in construction of port and ferry terminal modification at Port-aux-Basques, Newfoundland.

Vote 10b—To authorize a transfer to this Vote of $4,893,999

Explanation—Additional funds are required to:

(1) provide for price increases ($2,997,000) in petroleum products, fleet supplies and other standard commodity items;

(2) provide for the cost ($831,000) of unforseen damage incurred by vessels engaged in icebreaking and search and rescue activities;

(3) cover the cost ($439,000) of a ports and harbours task force formed to recommend a new ports policy for Canada;

(4) meet the cost ($273,000) of tenant services formerly provided by the Department of Public Works;

(5) provide for the cost ($191,000) of the annual price adjustment in connection with ice reconnaissance services contract; and

(6) cover the costs of other projects such as the Federal Labour Intensive Program ($70,000) and the establishment of a Canadian marine communications station ($93,000).

Source of Funds—Vote 15—($4,893,999)—Funds are available because of unforseen delays in the construction program.

Vote 30b—To authorize a transfer to this Vote of $849,999

Explanation—To provide additional contributions to various municipal airports in Canada to cover their operating deficits.

Source of Funds—Vote 20—($849,999)—Funds are available because of additional Air Transportation Tax revenues and from savings in other items.

TRANSPORT—NATIONAL HARBOURS BOARD

Vote 92b—To authorize a transfer to this Vote of $674,999

Explanation—Additional funds are required to meet cash operating deficits incurred in the calendar year 1975 at the ports of Churchill ($600,000 mainly due to below average grain traffic) and Prince Rupert ($75,000 due mainly to higher than expected maintenance costs in the operation of small craft facilities).

Source of Funds—Vote 90—($674,999)—Funds are available due to the deferral of a bridge repainting project until 1976.

URBAN AFFAIRS

Vote 1b—To authorize a transfer to this Vote of $999,999

Explanation—Additional funds are required to complete the planning process and to conduct public activities at the Toronto Waterfront Park.

Source of Funds—Vote 5—($999,999)—Funds are available since grants and contributions will be less than expected.

URBAN AFFAIRS—CANADIAN HABITAT SECRETARIAT

Vote 40b—To authorize a transfer to this Vote of $1,299,999

Explanation—Additional funds are required to cover increased costs for media facilities, communications, audio-visual and interpretation facilities.

Source of Funds—Vote 5—($1,299,999)—Funds are available since grants and contributions will be less than expected.

VETERANS AFFAIRS

Vote 45b—To authorize a transfer to this Vote of $1,349,-999 and to authorize the deletion of a debt for $28,500.94

Explanation—The Standing Interdepartmental Committee on Uncollectable Debts has recommended the deletion of this debt which results from unpaid treatment costs. The debtor is deceased with no known estate.

Additional funds of $1,349,999 are required to cover increased costs of treatment services.

Source of Funds—Vote 50—($1,349,999)—Funds are available due to the deferment of certain capital projects.

SCHEDULE B

ONE DOLLAR ITEMS WHICH AUTHORIZE THE PAYMENT OF GRANTS—9 ITEMS

CONSUMER AND CORPORATE AFFAIRS

Vote 25b—To authorize a grant of $20,000.

Explanation—The grant to the World Intellectual Property Organization must be paid in Swiss francs. Because of fluctuating exchange rates, the $100,000 provided for in Main Estimates is not sufficient.

Source of Funds—Vote 25—($19,999)—Operating expenditures were not as high as expected.

ENVIRONMENT

Vote 15b—To authorize grants totalling $396,467.

Explanation—Additional funds are required:

(1) To recoup the 1974-75 deficit in the Fisheries Prices Support Account ($382,467); and

(2) to provide for the payment of $14,000 to a successful appellant who lost employment as result of the ban on whaling.

Source of Funds—Vote 15—($396,466)—Funds are available from the Program for Rehabilitation of Canadian Fisheries.

EXTERNAL AFFAIRS

Vote 10b—To authorize grants totalling $475,000 and a transfer to this Vote of $544,999.

Explanation—It is proposed to provide grants in lieu of taxes on diplomatic and consular properties in Canada.

Source of Funds—Vote 5—($544,999)—Funds are available due to a delay in the acquisition of a site for a new Chancery in Washington.

EXTERNAL AFFAIRS—CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

Vote 30b—To authorize a grant of $100,000.

Explanation—To provide additional funds to the International Institute for Tropical Agriculture to meet the higher operating costs in 1975.

Source of Funds—Vote 30—($99,999)—Funds are still available within allocations for multilateral grants.

LABOUR

Vote 1b—To authorize grants totalling $70,000.

Explanation—To provide additional Adjustment Assistance Benefits to workers in the textile and clothing industries, because the number of claimants has increased and the benefit has been increased in consonance with the cost of living adjustments.

Source of Funds—Vote 1—($69,999)—Reorganization of the Department and resultant delays in staffing certain positions have freed resources.

PUBLIC WORKS

Vote 5b—To authorize a grant of $7,500.

Explanation—to provide a grant of $7,500 to the Canadian Association of Fire Chiefs. This grant matches an equal contribution from the Provinces and is to be applied to the operating costs of the Association.

Source of Funds—Vote 5—($7,499)—Restraint in the use of professional services has made these funds available.

SECRETARY OF STATE

Vote 20b—To authorize a grant of $500,000

Explanation—To provide a grant to the province of Newfoundland to commemorate the 25th anniversary of its entry into Confederation.

Source of Funds—Vote 20—($499,999)—Funds will be available since the proposed grant to Massey Hall will not be paid in this fiscal year.

Vote 40b—To authorize grants totalling $33,100.

Explanation—Additional funds are required to provide grants to three volunteer organizations under the Citizenship Participation Activity.

Source of Funds—Vote 40—($33,099)—Funds are available due to reduced expenditures under the Citizenship Promotion Activity.

VETERANS AFFAIRS

Vote 10b—To authorize grants totalling $10,500,000 and to authorize transfers to this Vote totalling $10,499,999.

Explanation—Additional funds are required to cover increased payments for War Veterans Allowances and Civilian War Allowances due to increased case loads, an unexpected carryover from 1974-75 due to recent legislative changes, a delay in receipt of Spouse's Allowances and the cancellation of escalation in Family Allowance.

Source of Funds—Vote 35—($5,499,999)—Funds are available due to reduced pension case loads.

Vote 50—($5,000,000)—Funds are available because of unforeseen delays in capital projects.

SCHEDULE C

ONE DOLLAR ITEMS WHICH AUTHORIZE THE DELETION OF DEBTS DUE THE CROWN—4 ITEMS

NATIONAL REVENUE—CUSTOMS AND EXCISE

Vote 1b—To authorize the deletion of debts totalling $1,169,216.61

Explanation—To delete 72 uncollectable debts, each in excess of $5,000 and representing amounts owing in

respect of domestic sales taxes, excise taxes and import duties. Deletion of these debts has been recommended by the Standing Interdepartmental Committee on Uncollectable Debts.

NATIONAL REVENUE—TAXATION

Vote 5b—To authorize the deletion of debts totalling $7,961,142.13.

Explanation—To delete 453 uncollectable debts, each in excess of $5,000 and representing amounts owing in respect of unpaid income taxes. Deletion of these debts has been recommended by the Standing Interdepartmental Committee on Uncollectable Debts.

VETERANS AFFAIRS

Vote 5b—To authorize the deletion of debts totalling $49,703.84.

Explanation—The Standing Interdepartmental Committee on Uncollectable Debts has recommended the deletion of these debts. They result mainly from undeclared income or the failure to advise of changed marital status. Of the six debtors, one has died with no known estate and the remaining five are indigent.

Vote 30b—To authorize the deletion of a debt for $46,182.45.

Explanation—The Standing Interdepartmental Committee on Uncollectable Debts has recommended the deletion of this debt. The debt results from the overpayment of pension. The debtor is deceased with no known estate.

SCHEDULE D

ONE DOLLAR ITEMS WHICH AUTHORIZE FINANCIAL GUARANTEES—1 ITEM

FINANCE

Vote L31b—To authorize a loan guarantee.

Explanation—It is proposed to guarantee payment of a loan of $2 million to be made to the Ottawa Civil Service Recreational Association by a chartered bank. The loan is to be used by the Association to add an arena and multipurpose building.

SCHEDULE E

ONE DOLLAR ITEMS WHICH AMEND THE LEGISLATIVE PROVISIONS OF PREVIOUS APPROPRIATION ACTS—3 ITEMS

ENERGY, MINES AND RESOURCES

Vote L16b—To convert payments made or to be made to the end of 1976-77 in respect of Canada's financial participation in the development and exploration of the Athabaska Tar Sands into common shares of Petro-Canada, which will become the federal agent in the Syncrude Project.

Explanation—Authority is requested to deem any payment made pursuant to Energy, Mines and Resources Vote L12d of Supplementary Estimates (B), 1974-75 and Energy, Mines and Resources Vote L20, Main Estimates 1976-77 to have been advanced out of the Consolidated Revenue Fund for subscription of preferred shares in Petro-Canada.

INDUSTRY, TRADE AND COMMERCE

Vote L37b—To authorize the conversion of debt to equity and to enter into an agreement with prospective buyers.

Explanation—The Federal Government currently owns 40 per cent of Consolidated Computer Inc. (CCI) and the Ontario government owns 17 per cent. Because of the poor performance of CCI, it has been decided that immediate steps should be taken to restructure the company.

In order to attract partners for CCI, it is proposed to convert most of the debt to the Crown into capital stock and to transfer this stock to prospective buyers—Fujitsu of Japan and Consolidated Dynamics Ltd. of Canada.

TREASURY BOARD

Vote 20b—To authorize the payment of premiums and recovery of these costs in respect of employees who were on lawful strike.

Explanation—Authority is requested for the payment of full premiums for employee insurance plans in respect of employees who are on a lawful strike and who do not receive remuneration during that period from which these premiums can be deducted.

Authority is also requested to permit the recovery of these premiums during subsequent pay periods.

SCHEDULE F

ONE DOLLAR ITEMS WHICH AMEND ACTS OTHER THAN APPROPRIATION ACTS—1 ITEM

ENVIRONMENT

Vote L23b—To amend the Saltfish Act by raising the statutory borrowing limit of the Corporation from $10 million to $15 million.

Explanation—To provide for the normal expanding operations of the Canadian Saltfish Corporation. The Corporation is already close to its borrowing limit and any change in the factors of production and/or export conditions would affect the need for more working capital, particularly in the October peak pressure period.

THE SENATE

Thursday, March 25, 1976

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

Prayers.

NATIONAL CAPITAL REGION

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Dick had been substituted for that of Mr. Darling on the list of members appointed to serve on the Special Joint Committee on the National Capital Region.

APPROPRIATION BILL NO. 1, 1976

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-90, for granting to Her Majesty certain sums of money for the public service for the financial year ending 31st March, 1976.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Monday next.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Central Mortgage and Housing Corporation, together with a statement of accounts certified by the Auditors, for the year ended December 31, 1975, pursuant to section 33 of the Central Mortgage and Housing Corporation Act, Chapter C-16, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report of operations under the Government Annuities Act for the fiscal year ended March 31, 1975, pursuant to section 16 of the said Act, Chapter G-6, R.S.C., 1970.

BUSINESS OF THE SENATE

Senator Perrault: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move, seconded by Senator Petten, that when the Senate adjourns today it do stand adjourned until Monday, March 29, 1976, at 8 o'clock in the evening.

• (1410)

Before the motion is put, may I by word of explanation attempt to describe some of the activities with which the Senate may be involved next week?

When we meet Monday evening we shall continue with the second reading debate on Bill C-58, to amend the Income Tax Act, and proceed to second reading of Bill C-90, an act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1976. This supply bill covers supplementary estimates (B) for the present fiscal year. It is expected that the interim supply bill for three-twelfths of the main estimates for 1976-77 will pass in the other place tonight, so that by Monday we shall have two supply bills before us and perhaps another bill from the other place.

I should now like to give you a brief rundown on the work scheduled for committees, as far as I have been able to ascertain it up to sitting time. This, of course, as honourable senators know, is subject to change.

On Tuesday the Standing Joint Committee on Regulations and other Statutory Instruments will meet at 9.30 a.m. The Legal and Constitutional Affairs Committee will meet at 10.30 a.m. and again at 2.30 p.m. to continue its advance study of the subject matter of Bill C-83, an act for the better protection of Canadian society against perpetrators of violent and other crime. The National Finance Committee has called a meeting for 2 p.m. to further consider its draft report on the Manpower Division of Manpower and Immigration.

On Wednesday there will be a meeting of Banking, Trade and Commerce at 9.30 a.m. The committee will deal first with Bill S-33, an act respecting United Grain Growers Limited, and then commence its examination of Bill C-58, should that bill have been referred. The Special Senate Committee on Science Policy is scheduled to meet when the Senate rises.

On Thursday the National Finance Committee will meet at 9.30 a.m. to further consider the draft report on the Manpower Division of Manpower and Immigration, and there may be a meeting of the Standing Joint Committee on Regulations and other Statutory Instruments. This is not yet definite and no time has been set.

Senator Flynn: May I ask the Leader of the Government a question with respect to Bill C-90, an act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1976, which was just given first reading? Is that the substance of the bill or is there some borrowing authority included in the bill?

Senator Perrault: Honourable senators, it is my understanding that there is no borrowing authority involved in the bill. However, I do not have a copy of the bill available at my desk at this time.

Senator Flynn: I suggest that at this time the Leader of the Government should know what is in the bill, since it passed the other place.

Motion agreed to.

CANADIAN COINS

REPORTED CHANGE IN DESIGN—QUESTION ANSWERED

Senator Perrault: Honourable senators, yesterday a question was asked about the Royal Canadian Mint and alleged plans to change the fronts and/or backs of the present currency in 1977. Presumably that would relate to coinage and bills, honourable senator.

Senator Forsey: Coinage is all I asked about.

Senator Perrault: "Currency" is the word used in the quoted part of the record. We have been informed by the Royal Canadian Mint that "There is absolutely no thought given to changing the coins."

Senator Grosart: No heads will roll.

Senator Flynn: For the time being.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Frederick W. Rowe: Honourable senators, you will be happy to hear that I do not intend to rehash all the arguments, pro and con, which we have heard in this debate. I propose to deal with two aspects of it, and I propose also to be very brief in doing so.

I will be guilty of some repetition because I think it is important that our American friends do not get the idea, which some people think they already have, that there is an anti-American feeling developing here in Canada. I do not think there is, but I do know that every time any Canadian opens his mouth in any way critical of any aspect of American life, be it cultural or having to do with economics or foreign policy, there is always the danger that he will be portrayed as anti-American. I want, then, to repeat one or two things I have said in this chamber before.

I come from a province which has close ties with the United States—closer than any ties which the other provinces in Canada have with the United States. There are more Newfoundlanders, first, second and perhaps now third generation, living in the United States than there are in the province of Newfoundland. Prior to World War II the population of Newfoundland had remained virtually static for 50 years, in spite of the fact that Newfoundland had one of the highest birth rates in the Western World. The population remained static because, as they grew up, the young people of Newfoundland left their homeland. Many of them moved to what we now call the mainland of Canada, but by far the majority went to the United States. During World War II, if I remember correctly, the Governor of the State of Massachusetts told me that just in Massachusetts alone there were more first and second generation Newfoundlanders than there were on the island of Newfoundland itself.

During the war the American nation built great air bases in Newfoundland. Those bases employed thousands of Newfoundlanders, and even today they are not completely phased out. During that period 40,000 Newfoundland girls married American servicemen, and they are now living with their families in the United States.

As you know, the greatest iron ore deposits on the face of the earth are to be found in western Labrador. For the multi-billion-dollar economic development of those deposits, and for the almost equally expensive hydro development of the Churchill River, which has already led to an investment of well over $1 billion, as well as for countless millions of dollars spent in other parts of the province, Newfoundland had to depend on the United States. The money simply was not available in Canada. I am not being critical when I say that in Newfoundland we recognize the fact that if we had had to rely on Canada to develop those iron ore deposits or the hydro potential they would still not be developed to this day, because Canada simply did not have the financial resources at its disposal. For those reasons, therefore, I say we have close ties with the United States, and I know of no one in Newfoundland who would ever wish our American friends—and indeed, I suppose, our American relatives—anything but good.

Incidentally, just in passing I think it is interesting to note that during the 30-odd years those great American bases have been in use in Newfoundland, involving the presence of tens of thousands of American servicemen in Newfoundland, there has not been one single untoward incident in respect of the American servicemen. Not to this moment. I say, therefore, that we in Newfoundland are not anti-American. We should not forget that in 1948 almost exactly 50 per cent of the people of Newfoundland voted for economic union with the United States of America. If it had not been for the fact that a great many Newfoundlanders did not want to sever completely their sentimental ties with the British Isles, the Mother Country from which 99 per cent of us came, Newfoundland would today not be a province of Canada but very probably a state of the United States of America.

● (1420)

Senator Lamontagne: And what do you suppose would have happened to you then?

Senator Rowe: What would have happened if we had become a member of the United States is very hypothetical, but I mention this to demonstrate that in Newfoundland there is no anti-American feeling at all. It is exactly the opposite. I do, however, have some critical things to say about the United States today.

First of all I am going to refer to some comments made by one of our most distinguished and respected senators, Senator Beaubien, when he was speaking in this debate on March 22. So that you will know exactly what I am referring to, I propose to take the liberty of reading the particular paragraph, which is very short, in which he spoke of relations between Canada and the United States. He said:

> There are people who sit back and pretend that it doesn't matter, at a time when the United States is having trouble with Cuba, that our Prime Minister

> goes down there and makes a big to-do and has his picture taken with Castro. But where does that behaviour get us when, about two weeks later, the American President calls that dictator an international bandit? Certainly, if you are a little guy and you are up against somebody like Joe Louis and he has you backed into a corner, you will fight back to defend yourself. But to kick a big guy in the shins just for the hell of it simply doesn't make any sense. We should grow up and realize that we are terribly lucky to have neighbours who are so much like ourselves that it is difficult to tell us apart. Are we not lucky to have Americans as neighbours? Any time we have been nice to them and behaved sensibly they have responded. I think it is time we mended our ways.

This is the statement to be found at page 1929 of *Hansard* of March 22, 1976, which was two days ago.

I may say that there is no member of the Senate for whom I have higher regard than Senator Beaubien. Long before I knew him I had a great deal to do, in one way or another, with three other distinguished members of that very distinguished family, and so I want to make it clear that what I have to say is in no way personal as far as Senator Beaubien is concerned. In fact, I am not so much concerned with what he said in the passage I have just quoted as I am with the inferences that will undoubtedly be drawn from it, and indeed, the inferences, I think I can safely say, that have already been drawn from it by some people.

To start off with, only a few weeks before our Prime Minister visited Cuba there was a great deal of talk all over the United States, and indeed all over the world, of extending the détente between the United States and Russia, which was being talked about so much at that time, to include Cuba. There was talk that Premier Castro might go to the United States on a goodwill visit, and that the United States would undo some of the things it has done in recent years and is doing now with regard to Cuba. Therefore, there was no way—not that it would have mattered or should have mattered—for Prime Minister Trudeau to know that two weeks after his visit President Ford was going to brand Premier Castro as an international bandit, for the very simple reason that at the time, or a few weeks before that visit, the problem of Angola had not emerged.

Some Hon. Senators: Oh, oh!

Senator Rowe: All right, let me qualify it a little. The fact that the possibility of détente between the United States and Cuba was being discussed barely a few weeks before Prime Minister Trudeau's visit made it clear that there was no talk of and no knowledge of the presence of Cuban troops in Angola.

Senator Flynn: But Prime Minister Trudeau discussed this matter with Premier Fidel Castro when he visited there.

Senator Rowe: Of course, and I heard the actual words spoken by the Prime Minister in connection with that.

Senator Flynn: At any rate it is not relevant to the bill. If you want to reply only to the points made by Senator Beaubien, that is up to you.

[Senator Rowe.]

Senator Rowe: I accept the point made by the Leader of the Opposition. It is not really too relevant. But what is relevant is the suggestion—and certainly the inference can be drawn from what Senator Beaubien said—that Canada's foreign policy should in reality be drawn up and implemented and adopted to suit the whims and wishes of the United States. I am not drawing that inference; that is the inference that a number of people would draw from the words I read a few minutes ago.

Senator Grosart: I wonder if the honourable senator would accept a question. In view of his remark a moment ago about the lack of knowledge of the Angolan situation and the presence of Cuban troops there, and as this Bill C-58 is sometimes known as the *Time* bill, I wonder if he has been reading *Time* over the last six months.

Senator Rowe: It may interest the honourable senator to know that I have read every issue of *Time* ever printed, from the very first one. That is not strictly correct, because I have not read the one on the newsstands right now. I have not had time. But I have read all the others.

But this is important, honourable senators, and I say it is relevant for this reason, if for no other, that there are people who say that what we are doing or what we propose to do with respect to *Time* magazine is really a manifestation of anti-Americanism, and I suggest it is nothing of the kind.

Senator Flynn: Agreed.

Senator Rowe: So, honourable senators, before leaving the point finally, let me say that insofar as Canada's foreign policy is concerned, Canada has the right—and I am sure nobody would be more ready to defend that right than Senator Beaubien—to adopt whatever foreign policy it feels is necessary in the interests of Canada. Here I might add that it is rather ironic that the actions of our Prime Minister in respect of China, just a few short years ago, were ridiculed and criticized in every part of the United States, particularly, of course, in the various news media. They felt that what he was doing was an act of defiance and a blow in the face to the United States. One of the great ironies of history is that not too long afterwards, President Nixon and Dr. Kissinger decided that the steps taken by Prime Minister Trudeau on behalf of Canada with regard to China were precisely the same steps that the United States itself should take, and did indeed take.

I want to say a few words about *Time* magazine itself. This is a matter which I must confess I find it hard to get emotional about. But I want to say in all fairness that the arguments made here critical of the actions proposed in this bill are, in my view, valid for the most part. They are valid arguments. I do not know of any piece of legislation—and I have had a fair amount of experience with legislation during the past 25 years—which could not be criticized in some way. What happens is that when all the pros and cons are added up, it is then decided whether the pros outweigh the cons. In my judgment the pros outweight the cons in this particular bill, and I shall support it.

● (1430)

I do hope, however—and perhaps Senator Davey will deal with this point when he closes the debate—that some consideration will be given to a possibility that I shall now

mention. I received today a copy of *MD of Canada*, the excellent professional magazine to which Senator Manning referred on Tuesday. As far as I know it is not sold to the public or to anyone else, and as far as I have been able to ascertain it certainly does not offer unfair competition to any similar professional magazine. I understand that the Canadian medical profession itself is not large enough to warrant the cost of producing such a periodical. I suggest that it would be a pity if, while trying to achieve one of our aims, which is the promotion and protection of Canadian periodicals, in throwing out the bath water we throw out all the babies. If at all possible, we should keep "babies" of this type. I hope that we can amend this bill in committee to achieve this end. I appreciate that in amending any legislation it is always possible to vitiate or emasculate it and, in fact, do more harm than good. Nevertheless, I suggest that we should try to find a way to protect *MD of Canada* and similar publications without destroying the main purpose of the bill itself.

I am not referring simply to statements made in this chamber. I have been interested in the amount of sympathy that has been elicited by *Time* magazine. To be honest, I have heard more sympathy expressed for *Time* magazine—again I am not referring to any particular senator, or even to the debate in this chamber—than I have for our own Canadian periodicals.

Senator Flynn: Name them.

Senator Rowe: Yes, I will name some in a moment. I do not believe that *Time* needs all that sympathy. In my opinion *Time* has had a very profitable enterprise here in the production of its Canadian edition. May I again inject this personal note, that I was not joking when I said to Senator Grosart that to my knowledge I have read every issue of *Time* magazine ever published—as, indeed, I have read every edition ever published of its sister publication, *Life*—and I do not regard it as one of the really great magazines in the world. I do not think it approaches, for instance, the worth of the *Illustrated London News*, to name only one. However, it is an interesting magazine and has performed a valuable function. The fact that most of us read it regularly, and did so before there was a Canadian edition and, I am sure, will continue reading it—just as most of us, I am sure, read *Newsweek* and other magazines which do not have Canadian editions—indicates that quality. I repeat, I do not believe that *Time* needs all that sympathy. As one senator said yesterday, I think *Time* will survive and I would suggest to you that there will not be any great reduction in the Canadian readership of that magazine. Those who want it will continue to buy it, in spite of the increase in price. I do not think for one moment that *Maclean's* magazine, for example, which is the Canadian magazine most often referred to as having been a competitor, yet approaches *Time* magazine in its coverage and journalistic skill.

Let me draw to the attention of honourable senators a fact which so far I have not heard expressed anywhere else. There are a number of well-known women's magazines published in the United States which enjoy a wide circulation in Canada. Specifically, I refer to *Good Housekeeping, Ladies' Home Journal,* and *McCall's.* I am familiar with one particular magazine which is available in Canada and to which my wife subscribes. My wife subscribes, in fact, to all four magazines. I refer to *Chatelaine* magazine, which in its coverage, its journalistic skill, and in other ways, compares favourably with the three American magazines I have mentioned. I have no doubt that my wife, and the wives of other honourable senators, if limited to subscribing to only one of those four, would settle for *Chatelaine.*

Chatelaine has improved in many ways over the years. Could that magazine have attained its present excellence—I believe that most fair-minded people would agree that it has attained a high degree of excellence in one way or another—had it encountered unfair competition from *McCall's, Good Housekeeping* and *Ladies' Home Journal,* in the same way that *Maclean's* has encountered unfair competition from *Time* magazine?

That, in my opinion, is a valid question, and one which we should ask ourselves. The fact that *Maclean's* magazine at this moment may not measure up in quality—and some say that it does not—may very well be an indication of the difficulties it has had to face in trying to compete—unfairly, many think—with *Time* magazine.

It is another way of saying that *Maclean's,* given the same chance in the next five or six years that *Chatelaine* has enjoyed in the past five or six years, could very well compare, in all points I have mentioned, with *Time* or any other magazine being published in the United States.

Some senators have suggested here and elsewhere that instead of bringing in this bill we should have tried to work out some reciprocal agreement with the United States on this matter. This leads me to ask the question: Where has the United States been all these years? I have not heard anyone in the United States come forward with any offer to give Canadian publications the same privileges which have been enjoyed here in Canada by *Time* and *Reader's Digest* over the past few years.

Senator Grosart: They have them now.

Senator Rowe: They knew how we felt up here. The publishers of *Time* in the United States, and the Government of the United States, must have known the feeling in Canada. They must have seen the writing on the wall. I am not aware that they offered to take any action which could effect a reciprocal arrangement or would undo the unfair competition which our periodicals have had to face over the past few years.

In conclusion, I am quite sure that the bill, as it now stands, is not entirely satisfactory to all members of this chamber, but, in my view, its merits far outweigh any possible defects. Many of the dangers which have been pointed out are hypothetical.

● (1440)

As has been pointed out by Senator Manning, Senator Laird and others, there is inherent in this bill the possibility of undue interference with the freedom of the press. That is something against which we have to be on guard. We have seen how power can corrupt, in the manifestations of American foreign policy in recent years. Power in the hands of a few people has to have competent and unending supervision, otherwise we will experience the same aberrations we have seen in American foreign policy in recent years—the overthrowing of legal governments, the spending of millions and tens of millions of dollars to

create disorder and turmoil in independent nations all over the world. Such power has even been used to plot assassinations. I could not help thinking that the President of the United States, in calling a head of state an international gangster—if that is the term he used—leaves himself wide open at this particular time.

There is inherent in this bill the possibility of some abuse of power. That is a risk we have to take. At least, we are aware of the possibility and can be on our guard against it. If in the years following passage of this legislation we find it is being misused, then we, as parliamentarians, have the sovereign right to remove the offensive powers in the interests of Canada.

I should like to conclude, honourable senators, by saying that I support Bill C-58.

Senator Grosart: I wonder if the honourable senator would reply to two questions that arise from his remarks. First, is he not aware that there have been official representations made by officials of the United States at a very high level respecting the substance of Bill C-58? He seemed to indicate that he was not aware that such representations had been made.

Secondly, is the honourable senator aware that there appears to be no basis for any additional reciprocity—he seemed to suggest that that is what our American friends should have asked for—in view of the fact that Canadian magazines now have in the United States all the rights that are being asked for by those who oppose the restrictive tax measure contained in this bill? I am wondering what he meant by "reciprocity."

Senator Rowe: It seems that I did not make myself clear. As the honourable senator knows, I was speaking extemporaneously, and perhaps I should have spoken formally.

The point I was trying to make is that a good many years ago—and I do not have the precise date at hand; I am sure Senator Davey would have it—action of the kind envisaged in this bill was contemplated by the Government of Canada. What happened? Henry Luce—and this is a well-known fact—wielding all the power he had in the United States, went to the appropriate departments and officials of the Government of the United States, including, some people think, the President of the United States, and said, "These Canadians are up to something and we want to stop them." It is a fact of history that at that time Canada was indeed blackmailed—

Senator Grosart: No, no. Is the honourable senator saying that the government in office at that time submitted to blackmail? Would he not agree that it is the right of any American citizen to go to the President and ask for intervention in an action by another country?

Senator Rowe: I do not know if the honourable senator heard the statement made last evening by Mr. Chester Ronning—

Senator Grosart: I did hear it, but that is not to say I agree with it. Any suggestion of blackmail is a false statement.

Senator Rowe: Of course, I cannot argue that point. I do not see the purpose of Mr. Ronning's making a false statement at this particular time. Certainly, the statement he did make was that the President of the United States brought pressure to bear on the Prime Minister of Canada—in fact, he said that there were two Prime Ministers involved—to help change what he thought was to be the direction of Canadian foreign policy.

Senator Grosart: Would the honourable senator not agree that this happens all the time? Would the honourable senator not agree that Canadians are going to our Prime Minister all the time in an effort to have him bring pressure in their interests on the American government? I do not understand what the honourable senator is objecting to.

Senator Rowe: What I am suggesting is that because Canada is the weaker of the two geographic partners, we have to maintain external vigilance. We know that the power the United States possesses has been applied against Canada over and over.

Frankly, "blackmail" is not the appropriate word. I was using it figuratively, of course. Certainly, we have to be aware at all times of the possibility that the United States will seek to exert undue influence on Canada's foreign policy and, for that matter, on Canada's domestic policy.

Senator Grosart: I should just like to say that I agree entirely with the honourable senator's last statement, which is almost the opposite of the statement to which I objected.

On motion of Senator Perrault, debate adjourned.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B)—DEBATE ADJOURNED

The Senate proceeded to consideration of the report of the Standing Senate Committee on National Finance with respect to the supplementary estimates (B) laid before Parliament for the fiscal year ending March 31, 1976.

Hon. Herbert O. Sparrow moved that the report be adopted.

He said: Honourable senators, before the question is put, I should like to make a few comments on the report of the Standing Senate Committee on National Finance that is now before the house.

The committee made a general examination of supplementary estimates (B) for the fiscal year ending March 31, 1976, and heard evidence from the President of the Treasury Board, the Honourable Jean Chrétien, as well as from Mr. B. A. MacDonald, Deputy Secretary, and Mr. R. L. Richardson, Assistant Secretary, Program Branch, Treasury Board.

Supplementary estimates (B) total $921 million. That sum, added to supplementary estimates (A) in the amount of $1.751 billion, and the main estimates in the amount of $29.585 billion, brings the total of the 1975-76 estimates to $32.257 billion.

When Mr. Chrétien appeared before the committee during its review of supplementary estimates (A), he predicted that the total estimates would not exceed $32 billion. His prediction at that time has proven reasonably accurate, with the final estimates totalling, as I have just stated, just over $32 billion.

Supplementary estimates (A) and (B) represent an increase of 9 per cent in the total estimates, a figure which compares favourably with the 21 per cent increase in the estimates by supplementaries for the previous fiscal year. The total estimates for the fiscal year ending March 31, 1976, represent an increase in expenditures of 16 per cent over the fiscal year ending March 31, 1975. This rate of increase in total expenditures compares favourably with an increase of 30 per cent in the previous fiscal year.

I am pleased that the rate of increase has diminished, but it is disturbing that the increase in expenditures is still 16 per cent, at a time when this government—and, in fact, all governments—should be holding the spending line to a maximum of the rate of increase in the gross national product.

● (1450)

We cannot look forward with much optimism to the next fiscal year, because the President of the Treasury Board told the committee on March 10 that he predicted a further increase in expenditures of 16 per cent. The minister defended the increase as necessary because of statutory requirements relating to, for example, unemployment insurance, increases in shared costs of health and welfare programs, increases in old age security, and to a large increase in the budget for national defence.

Even though the minister says the increases are defensible, it is still disconcerting when we realize that the increase in the gross national product for 1975 was only 9.9 per cent in current dollars—and, in fact, only 0.2 per cent in constant dollars—with little hope of much improvement in 1976. However, the minister did predict at the committee meeting on March 10 that we would see an increase in real growth of 4 or 5 per cent in 1976.

The National Finance Committee has on many occasions said that the increase in government expenditures should not exceed, as a percentage, the increase in the gross national product. It appears that we shall again have to look to the future for any realization of that goal.

Senator Grosart: Honourable senators, it is my intention to move the adjournment of the debate, mainly to permit honourable senators an opportunity to examine, if they wish, the report of the committee over the weekend.

Honourable senators are aware that we have been attempting, as a matter of Senate policy, to allow a much longer time between the consideration of the report of the Standing Senate Committee on National Finance and subsequent consideration of the appropriation bill dealing with the particular estimates. In this case, the report of the committee was presented to the Senate yesterday, and it is under consideration today. We have also received today, and read the first time, an appropriation bill, Bill C-90, the substance of which is dealt with in the committee's report.

I am not being critical of the committee, because I know that the time available for consideration of the report is shorter than the committee had hoped it would be. It must be remembered that on this occasion the committee gave the supplementary estimates considerably more attention than it has on previous occasions. There was a fairly long interval between the meetings of the committee. Personally, I am very much in favour of that kind of thorough examination in committee before we have to consider the appropriation bill.

I know that the chairman of the committee and the deputy chairman, who has just spoken, both agree that it is highly desirable to present the report of the committee at least a week before the Senate is asked to consider an appropriation bill, and every effort is being made to do that.

Following the usual practice, the Order Paper for our next sitting will call for second reading of the appropriation bill before the resumption of our consideration of the committee's report. I am not asking for any longer delay, in the interests of honourable senators, than the weekend. However, I would ask the leader to give an assurance that consideration of the committee's report will be concluded before the second reading of the appropriation bill, which I believe can be on the same day. It would merely mean postponing the debate on second reading until later that day when, it is to be hoped, we will have adopted the report of the committee.

Senator Perrault: Consideration will certainly be given to that proposal.

On motion of Senator Grosart, debate adjourned.

HABITAT

UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENTS—REPORT OF CANADIAN NATIONAL COMMITTEE—DEBATE ADJOURNED

Hon. Sidney L. Buckwold rose pursuant to notice:

> That he will call the attention of the Senate to the Report of the Canadian National Committee on Habitat: United Nations Conference on Human Settlements.

He said: Honourable senators, I am very pleased to have this opportunity to report to the Senate on the activities of the Canadian National Committee in preparation for Habitat. Copies of the committee's report have been distributed to members of Parliament, and I hope all of them have had an opportunity to look at it.

In June of 1976 Canada will be host to Habitat, the United Nations Conference on Human Settlements. Almost 140 members of the United Nations are expected to send delegates to this two-week conference. They will address themselves to the common problem of accommodating rapidly expanding populations in a way that will benefit people, their society and their environment.

Canada has played an active role in the invitation of the nations of the world to this conference, and in its preparation. I am sure all honourable senators will recall the United Nations Conference on the Environment which took place in Stockholm in 1972. I suggest that that was one of the turning points in world history, not only because of the physical changes for nations, but also because, for the first time, the nations and peoples of the world recognized the problems of the environment. Up to that time, most of us had taken the environment for granted. Stockholm drew the attention of the world—and drew it very dramatically—to the fact that our atmosphere was being polluted, that our water resources had to be protect-

ed, and that generally the environment was a matter of serious concern to every one.

The problems of human settlement are universal, and they cry out for immediate attention. Overcrowding, pollution, depletion of resources, rural decay, explosive growth of large cities, traffic congestion, spreading under-employment, the often destructive effect of mass migration of families and of deep-rooted cultures are all increasing in intensity. They are concerns of great importance to every human being wherever he or she lives in this world, but most people are unaware of the significance of these trends and of the urgent need to find solutions to them.

Perhaps I should give some statistics. If current population and urbanization trends continue, we can expect that in Canada we shall have to build the equivalent of 50 new cities the size of Halifax, or 14 new cities the size of Vancouver, by the year 2000. In the next 30 years the world's population will nearly double, to over 6.5 billion or perhaps seven billion people, and by that date, for the first time in human history, more people will be living in cities than in rural areas. Already urban settlements are growing twice as fast as the overall population. The world's big cities of over half a million in population are growing twice as fast again.

● (1500)

In the next thirty years, honourable senators, more building will be needed to accommodate the world's population than has been done in the whole of man's history. In developing countries alone, where two-thirds of the anticipated population increase will occur in the next twenty years, more construction for settlements will be needed than was carried out in all the developed countries over the last 200 years. This is the kind of world problem we face. I think you will appreciate the necessity for some kind of international action, to discuss and plan for the development of our communities, the human settled urban communities or world.

In Canada we sometimes think we do not have human settlement problems, but we have, I think, some very significant ones. We should face the fact that we are now an urban nation; that by the year 2000, which is only 24 years in the future, it is anticipated that at least 75 to 80 per cent of our population will live in urban areas; that of those, 50 per cent will live in 12 cities and that of that 50 per cent one-third will live in the three major metropolitan areas of Vancouver, Toronto and Montreal. I believe these statistics are very impressive, as we look at them and visualize the kind of urban problems that will face this country in the years ahead.

Canada, in organizing its plans for the United Nations conference, set up a committee known as the Canadian National Committee, of which I have the honour to be chairman. I can say I was named chairman not because of any Senate connection, but perhaps because of my background in urban government. Other members of the committee are: Dr. Hugh L. Keenleyside, Honorary Chairman, British Columbia; Dr. Lloyd Axworthy, Manitoba; Dr. Meyer Brownstone, Ontario, resigned October 1975; M. Claude Castonguay, Quebec; Mrs. Adrienne Clarkson, Ontario; Professor P. J. FitzPatrick, New Brunswick; Mr. E. Gaboury, Manitoba; Mr. J. Gerald Godsoe, Jr., Nova Scotia; Mrs. Brenda Hayes, British Columbia; Mrs. Cynthia Hill, Northwest Territories; Ms. Frances Innes, Newfoundland; M. Guy Legault; Quebec; Mr. Norman MacLeod, Prince Edward Island; Archbishop J. N. MacNeil, Alberta; Mr. Johnny YesNo, Ontario.

From that list of names, you will recognize that the committee does represent a good cross section of the country.

We were given the following responsibilities: first, to foster public awareness and interest in Habitat, and to stimulate discussion of the issues, and appropriate responses, in Canada; secondly, to give advice to the minister in the preparatory process for Canada's contribution to the 1976 conference based on the points of view expressed by the Canadian public; thirdly, to bring to the attention of the minister recommendations received during this process of preparation for the conference that could improve the quality of life in Canadian communities.

With those ends in mind, this report was produced. It was produced as a result of a wide range of activities, in which an attempt was made to reach the Canadian public and to interest the non-governmental organizations—the NGOs—of this country, and to involve as many Canadians as possible in this whole participatory process, so that the views of Canadians could be received and recommendations passed on to the Government of Canada.

It was a very interesting procedure. Our committee was able to organize for the first time, I believe, an NGO participation group, which has had two conferences. This represented non-governmental organizations, numbering some hundreds, which were called to Ottawa to discuss these problems from the point of view of citizens at large. I think that was a successful undertaking. I hope that it is possible to perpetuate it, and that the government will set up some kind of permanent forum for non-governmental people to talk about the issues of the day, insofar as human settlements are concerned, and pass on those views to the government.

We endeavoured to meet with provincial government representatives to discuss programs as they involve the provincial governments. We were in contact with the mayors of Canada, interesting them in Habitat and receiving their responses. We carried on a series of public meetings across the country, 16 in number, at which time representations were received from hundreds of interested groups.

On a perhaps more scholarly level, a series of symposia were held in 14 cities across Canada, at which certain themes were discussed and, I believe, a highly intellectual approach was taken to a wide variety of human settlement problems.

There were a variety of other programs held across the nation, including the Youth Dimension Program. Finally, we are publishing a catalogue of achievements, in which we will draw to the attention of Canadians some of the things Canada has done well.

This conference which will be held in Vancouver is not just a talkfest. It is a solution oriented conference. For the first time, nations of the world will be asked to give audio-visual and other presentations of successful programs which they have carried out, in which human settlement challenges have been met or successfully overcome.

Canada will have three demonstration programs in Vancouver. These are Management for Urban Growth and Land Use, Design Innovations for Cold Climates, and Governing Human Settlements. These will be presented to the world as part of the Canadian contribution, so that other nations may learn from what we have done in these particular areas.

Most of the 140 nations to be represented in Vancouver will give audio-visual presentations, which I assume will be of interest to everyone who attends and will, I am sure, be useful right across the world.

To carry that to the local situation, then, our committee will publish a catalogue of achievements in which the good things done by governments, by individuals and by organizations will be represented. I think it will be useful to the people of Canada to have the solutions that we have been able to achieve in this country.

One of our difficulties has always been that we are not able to know what others have done. Cities very often have to start from scratch in meeting a problem that faces them, whereas it is quite possible it has been solved by other areas.

Honourable senators, these are some of the things that went on in the background of this particular committee's work. Perhaps I should now refer briefly to some of the things we learned.

First, I would say there are many areas in which we had very little presented to us. This disturbed the committee. We heard very little on the problems of housing. There was a significant amount, but not enough considering the scope of the problem. We did not hear enough about social problems, the problems of the aged and the problems of the poor. We had very few presentations on behalf of urban Indians, who we recognize face significant problems and a real challenge to Canadian human settlements. These are some of the areas which we did not hear enough about. I am sure there is a good reason, and we tried to explain that in our report.

We heard a good deal about public participation, the involvement of citizens in the decision-making process, and were astounded to learn that in many areas of this country citizens felt frustrated by the fact that they have very little impact on what happens in their community. Perhaps one of the better examples in that respect was the city of Montreal. Many groups, as I say, really felt that they were not being listened to or were not being given an opportunity to be heard. The committee will be making suggestions as to how this might be improved.

● (1510)

As I say, we heard a good deal about the maintenance of small town and rural areas. As expressed to us in a great many places, the movement of people from rural areas into the cities is a matter of real concern. Honourable senators, we have suggested some programs we think might be effective in meeting this problem, recognizing that inevitably certain towns will eventually die, but suggesting to governments that they take a good look at the problem and start encouraging, in the best way possible, the maintenance of small town life where it is viable and where it can live and grow.

Other interesting topics of discussion were transportation, and restrictions inhibiting building. Perhaps you might be interested in this latter subject. The committee was quite concerned that building costs, as we all recognize, have reached the stage where it is almost impossible for the average Canadian to own his or her own home.

Perhaps you would allow me to read a part of this report of the Canadian National Committee. This is referring to the question of high cost restrictions involving zoning and building by-laws and so on, where we say:

> One very important human settlement recommendation is that governments rethink the objectives served by building codes, zoning regulations, and development requirements. In our experience, citizens consider these to be often inflexible and over-sophisticated; they may sometimes seem to bar their access to housing, and also inhibit new concepts and possible reductions in the cost of housing. Without limiting the generality of this statement, we draw attention to a number of situations.
>
> First, there exist many older homes in Canada that would never be built today because their design and standards would not meet CMHC or municipal requirements. Ironically, these buildings have been serving Canadians adequately for decades and may outlast "modern" homes that do meet seemingly artificial and arbitrary standards. Ironically, too, the over-sophisticated development standards may be counter-productive. This may become particularly true in relation to pollution standards. The situation was presented to us in Vancouver of the man who was told that he could no longer process his sewage through two septic tanks and a tile system but rather was forced to connect with a municipal system which was pumping untreated sewage into a public waterway. To be very blunt about it, the Committee heard "horror stories" about zoning, regulation, and codes from Inuvik, at one end of the country, through to St. John's, on the other end.

Without in any way lowering the standards to the point of encouraging poor housing, we suggested that a review be made of some of the standards we are now building into our system, which have the effect of adding considerably to the cost of housing—for example, densities, row housing and the like.

Honourable senators, one of the most important concerns expressed by the Canadians had to do with land use. What can we do about the loss of agricultural land in this country? We tend to think of Canada as a country with unlimited agricultural land. If, for example, you come from Saskatchewan, as I do, it is hard to visualize that we are in fact rapidly running out of good agricultural land, and that our urban sprawl has in past decades significantly reduced our productive agricultural land. But, we were universally informed by groups from right across the country that some form of national land policy, combined with provincial land policies, was essential. The question of public ownership of land was discussed, as was the question of whether land developed by Central Mortgage and Housing Corporation through land banking should be leased rather than sold. Another subject of discussion was the problem of land speculation around our cities, and the consequent

significant boost in the cost of land—another major material factor in the high cost of housing.

Honourable senators, these are the kinds of subjects we heard discussed. Unfortunately, time does not permit me to recount all of the discussion fully, or even to touch on all of the issues which were raised in the course of what was, for both me and my committee, a most interesting experience, and one which gave us the opportunity to listen to Canadians from across the country.

You may well wonder how this then relates to the United Nations Conference on Human Settlements. The conference will, of course, involve itself basically with international issues. Nevertheless, each nation is also expected to relate its objectives with respect to a national program, and in my opinion that is the significant role of the United Nations conference so far as its benefiting this country is concerned. I have often been asked what this conference will do for Canada. I suggest that it may well be a turning point, just as the Stockholm Conference was the turning point with respect to the environment because it affected air, water and that type of resource. I like to think that as a result of this conference people will become aware of the importance of protecting their environment in relation to human settlement areas, and that they will begin, in a variety of ways, to give more studied consideration to their communities, by beginning to participate in the decision-making process and becoming more concerned as Canadians with what happens to the places in which they live.

I hope the Government of Canada will set priorities and national objectives which will be meaningful for all Canadians; which will be targets for Canada to aim at in attempting to improve human settlements, whether urban or rural. For example, the government has already set as a target one million new housing units to be built in the course of the next four years; and there are many other areas of concern to Canadians which the government should set down as part of its position paper on the challenges to the future of Canadian settlements.

If we can cause Canadians to become aware of the fact that it does matter what happens to the places in which they live, and that governments at all levels—federal, provincial and local—do have real responsibility in achieving long-term objectives, it will be an important step in the direction of enjoying the kind of future we must face, which is basically urban but which does not minimize the importance of the rural or small town areas. To achieve this, however, a good deal of education, planning, co-ordination and an immense amount of money will be required. Can Canada meet these challenges? I think it can.

In conclusion, honourable senators, I should like to quote from a speech the Honourable Barney Danson delivered a few weeks ago before the session of the Preparatory Committee of the United Nations involved in this conference. He said:

> —as I have said in a number of speeches in Canada and abroad, we believe that, in human terms, Habitat can be the most important United Nations Conference ever held. Its subject matter is of direct concern to all humanity and critical to the world we build for future generations. The opportunity for substantial progress in problem-solving that Habitat presents is immense. Recognizing this potential, the Canadian government, and the Canadian people, will do everything that we can to ensure that the Conference is a success.

In his closing remarks, which I think were quite appropriate and proper, Mr. Danson said:

● (1520)

> Above all I look forward to an exemplary Conference that directs itself towards, and deals with, the critical issues which were its genesis. I hope that the world, and future generations, will be able to say that we met our obligations, that we faced the real issues, that we conducted ourselves with dignity, responsibility and mutual respect, and made progress for mankind. We have a unique opportunity to contribute significantly to world progress, and to reinforce the faith of those who have looked with hope to this body of the United Nations to bring harmony and dignity to humanity.

Honourable senators, this is a very brief resumé of Habitat, the United Nations Conference on Human Settlements, and what it means to the world and to Canadians. I hope that all honourable senators will have an opportunity to watch and participate in, if possible, what goes on in Vancouver. I suggest that what happens at that conference will be a significant factor in the future of this great country.

Hon. Allister Grosart: Honourable senators, I have a few brief comments to make on the excellent outline we have had from Senator Buckwold of the preparations for the United Nations conference to be held in Vancouver. I am afraid, however, that I speak as one who favoured and supported the earlier Canadian government decision not to extend Canadian hospitality to the representatives of an international terrorist organization. I most earnestly hope that the kind of problems that some have suggested may arise because of the presence in Vancouver of those terrorists, or their representatives, will not come about. We can hope that with good luck, and good sense or good management, and perhaps the necessary good policing, we may avoid in Canada the kind of disruption that those terrorists have caused elsewhere in the world.

I am quite sure honourable senators will agree with me, however, when I say that we wish this conference success, if for no other reason than the fact that the chairman of the Canadian National Committee for the Habitat conference is Senator Buckwold. I know he has given a great deal of time and attention to this important matter, and I am quite sure the planning for which he and his committee have been responsible will allay the fears that some of us have had about the decision of the Canadian government to go ahead and host this conference in the circumstances I have indicated.

I congratulate Senator Buckwold on his courage, even if I have some doubts about his discretion in accepting this very important responsibility. This is a United Nations conference, and while some of us have serious concerns about what is going on in the United Nations, and particularly in its UNESCO committee with regard to human rights, which are an essential part of the considerations that will be taken up at this conference, the best those of us who have some good will can do is to hope the conference will be a success.

There is no question in my mind that urban housing is not merely a domestic problem in Canada; it is a domestic problem in every country in the world. There are obvious interlocking international aspects of it from which, no doubt, we can learn, since our own housing policy has not been entirely successful, in view of the fact that in some areas, and in terms of numbers, it has fallen far short of its own objectives, in spite of the claims that have been made for it over the years. It is heartening to know, however, that the number of housing starts in Canada last year was greater than anticipated, and we hope it will be even greater this year.

Our housing policies have certainly not been a complete failure—far from it. There have been successes achieved and contributions made by Canadian policy in both the public and the private sectors with regard to this very serious problem. Canada might even be said to be a leader in certain aspects of the finding of solutions to urban problems, because our urban problems, particularly in the housing field, have their own distinctive features of geography and culture patterns.

I hope we can learn something and that we can contribute something. In the meantime, we will all, I am sure, be quite certain in our own minds that this will be a better conference than it might otherwise have been because Senator Buckwold has taken the responsibility he has.

Hon. Raymond J. Perrault: Honourable senators, I know that all members of this chamber appreciate the splendid and, indeed, moving report given us this afternoon by our distinguished colleague, Senator Buckwold.

Hon. Senators: Hear, hear.

Senator Perrault: I feel sure that I speak on behalf of all members of the chamber when I express to him our gratitude for the outstanding work he has been doing during these past few months, not only on behalf of the Canadian National Committee, of which he is the chairman, but on behalf of the Senate as well. He has distinguished himself from coast to coast, and this reflects well on the Senate and the contribution which senators, regardless of party, make on a continuing basis to this country.

I have several times had the opportunity to visit the site of Habitat, and to follow the progress of the preparations for this conference. Without question, this will be the most important international event ever held in Canada. Senator Buckwold has already given us many of these facts, but there will be well over 2,000 delegates attending this conference, which is going to be held in British Columbia.

Early in the course of preparations there were some difficulties. Inevitably, there are difficulties during the organizational phase of any major event of this kind and magnitude, whether we are talking about the Olympics, United Nations conferences, or even large domestically-sponsored meetings.

Senator Grosart: Or party conferences.

Senator Perrault: Party conferences as well, senator; you are exactly correct.

Most of the early difficulties with respect to the Habitat conference have been overcome. Plans for the conference are proceeding on an encouraging scale. The organization is proceeding very well. I have some first-hand knowledge because of my personal visits to the area. As well, the preparations which are going ahead for the official bodies and the presentations which they will be making at the Habitat conference are very exciting.

I would like to urge honourable senators to remember that the dates of the conference are from May 31 to June 11. I think that many of us should endeavour to be there to provide the support and make the kind of contribution that I think we can to ensure that this conference is a great success.

Senator Grosart: Will we get time off for that?

Senator Buckwold: Honourable senators, I know I am not supposed to speak again, but there is an important point that I did not bring up during my speech. Perhaps you will allow me to put this on the record.

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

Hon. Senators: Agreed.

Senator Buckwold: Thank you, honourable senators.

There is to be what is known as the parallel conference, or forum, in which non-government organizations and individuals will participate. At this conference, as in recent United Nations conferences around the world, individuals or representatives of non-government organizations are invited to attend and participate in discussion of the issues, to watch the proceedings, and to influence, if possible, what goes on at the international level when the nations are in fact presenting their individual position papers. They are given the opportunity of discussing the issues and using the platform of this forum without the restraints of national or international niceties. I would suggest that this is where the action will really be.

● (1530)

It is estimated that there will be anywhere from 5,000 to 10,000 people involved in this Habitat forum from all around the world. The forum will take place—although I should point out that I am not involved in the physical end of it—at Jericho Beach. I think the eyes of the world will probably be directed more at that forum than at the U.N. session itself. The forum will discuss what nations are saying, will try to influence national delegations and, I suppose, will be able "to say it like it really is." I look forward to that participation and that influence on the part of nations from all over the world.

In response to Senator Grosart's remarks about U.N. conferences and the problems of terrorists and of dealing with those who represent terrorist organizations, my committee is well aware of this. If you read the report you will see that it indicates our concern. As a matter of fact, I think we use the word "disillusionment" with respect to United Nations conferences, and the fact that the public in many parts of the world has become disenchanted with what is going on at United Nations conferences where, in fact, political issues have become supreme as against the actual issues of the conference itself. I am hoping that this will not happen at Habitat.

Certainly, the minister responsible, who will be the presiding officer, the Honourable Barney Danson, has done his best to influence nations around the world, because he has travelled to many of them to really try to concentrate

on the major issues facing this conference—that is, the issues of human settlement—and leave the political questions to the United Nations Assembly or the Security Council in New York.

Senator Quart: Would Senator Buckwold permit a question?

When he mentioned the non-governmental organizations, it brought to mind that I had the president of one of these organizations—in fact, one of the largest women's organizations in Canada—in my office the other day and this question of Habitat came up. I think that in recent publications and in the promotional literature we have received there has been mention of tours. My question is: Are those Canadian tours organized by a Canadian agency, by Senator Buckwold's committee, or by the United Nations? Just how are they organized?

Senator Buckwold: Honourable senators, representatives from nations around the world who will be in Vancouver are invited, if they so wish, to participate in tours in which Canada will try to show off some of the things we are proud of. Those tours are being organized by a department of the secretariat, and my particular committee is not invoved with that aspect of it. But the participation secretariat, as it is known, is in charge, and will be glad to pass on any information.

Senator Quart: May I ask further whether a special brochure to this effect will be given us?

Senator Buckwold: I believe a special brochure was distributed to all members of Parliament just this week, and probably you will find one on your desk. I think it has a black cover.

Senator Quart: Thank you.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until Monday, March 29, at 8 p.m.

THE SENATE

Monday, March 29, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

APPROPRIATION BILL NO. 2, 1976

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-91, for granting to Her Majesty certain sums of money for the public service for the financial year ending 31st March, 1977.

Bill read first time.

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

Senator Perrault: Honourable senators, with leave of the Senate and notwithstanding rule 44(1)(f), I move that this bill be read the second time later this day.

Senator Flynn: I am not objecting to giving leave, but I would like the Leader of the Government to explain why he wants leave to proceed tonight.

Senator Perrault: There are two other measures which it is felt should be dealt with before we get to this bill.

Senator Flynn: But as far as this bill is concerned, why is it necessary to proceed tonight?

Senator Perrault: Your question is, why is it being deferred until later this day?

Senator Flynn: Why do you wish leave to proceed tonight rather than in two days, or tomorrow?

Senator Perrault: I must apologize for misunderstanding your question. There is a problem of supply involved here. Together with the honourable senator, I regret that this bill has arrived here unavoidably later than any of us would have wished; but it is a supply situation, and I think the honourable senator is aware of this.

Senator Asselin: It is always the same. It is the same every year.

Senator Flynn: When does the Leader of the Government think this bill should receive royal assent, to avoid any problem?

Senator Perrault: With the cooperation of all senators, it is hoped that we could have royal assent tomorrow night. That is the tentative schedule.

Senator Asselin: Why?

Senator Perrault: It is because of the importance of paying out necessary moneys by the government.

Senator Grosart: I wonder if I could ask the Leader of the Government to explain this most extraordinary position where tonight, presumably, we will resume our consideration of the report of the committee on supplementary estimates (B) for the current year and apparently we will also have an appropriation bill for the current year ending this week. We are now being presented with an interim supply bill, and we are being asked to rush all these measures through in 24 hours. It seems incredible that this kind of management of the affairs of the Senate or Parliament should be confronting us at this time.

We have not finished dealing with the estimates for the last year. We have not voted supply for the 1975-76 year, and we are now being asked to rush through an interim supply bill for 1976-77—all in 24 hours. Surely we can have royal assent on Wednesday, before the end of this fiscal year.

Is there some reason why we have to have royal assent tomorrow night? I cannot believe it.

Senator Perrault: Senator, it is the intention, indeed the necessity, to issue cheques over a three-day period beginning on Wednesday of this week. I suggest to you that the time available to consider the proposed legislation is not as long as any of us would wish, but I am sure honourable senators understand the nature of the problem and know that we want those entitled to payment to receive their cheques on schedule. I can only appeal to the usual cooperative spirit of the Opposition, and I invite them to understand the nature of this particular problem.

Senator Grosart: I am quite sure that on this side we try rather hard to show that necessary cooperative spirit and to understand these particular problems, but what I find most difficult to understand is why this government does not seem to understand these problems so that it could place these bills before us soon enough to give us time to consider them.

Senator Perrault: The point of view and the criticism registered by the honourable senator have been noted carefully on the government side.

Senator Grosart: They always are.

Senator Asselin: Every year.

Senator Flynn: Let us say that we will give leave to the sponsor of the interim supply bill to proceed tonight, on the understanding that we will not be bound to follow through with it right away.

Senator Perrault: Honourable senator, no government supporter would wish to take away any of the rights and prerogatives of the Opposition with respect to this matter.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 44(1)(f), it is moved by the Honourable Senator Perrault, seconded by the Honourable Senator Langlois, that this bill be placed on the Orders of the Day for second reading later this day.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

DISTINGUISHED VISITOR IN GALLERY

SIR ROBIN VANDERFELT, K.B.E., SECRETARY GENERAL OF THE COMMONWEALTH PARLIAMENTARY ASSOCIATION

The Hon. the Speaker: Honourable senators, on behalf of the members of the Senate I should like to extend our warmest welcome to a most distinguished visitor, Sir Robin Vanderfelt, K.B.E., Secretary General of the Commonwealth Parliamentary Association, who is spending two days in Ottawa.

Hon. Senators: Hear, hear.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Report, dated March 1976, of the Law Reform Commission of Canada entitled "Our Criminal Law", pursuant to section 18 of the Law Reform Commission Act, chapter 23 (1st Supplement), R.S.C., 1970, together with explanatory notes.

Report of the Custodian of Enemy Property for the year ended December 31, 1975, pursuant to section 3 of the Trading with the Enemy (Transitional Powers) Act, Chapter 24, Statutes of Canada, 1947.

Report on the administration of the Public Service Superannuation Act, Parts I and II, for the fiscal year ended March 31, 1975, pursuant to sections 36 and 49 of the said Act, Chapter P-36, R.S.C., 1970.

Report on the administration of the Supplementary Retirement Benefits Act for the fiscal year ended March 31, 1975, pursuant to section 11 of the said Act, Chapter 43 (1st Supplement), R.S.C., 1970.

Copies of Report of the Correctional Investigator for the period from 1 June, 1974 to 31 May, 1975, issued by the Solicitor General of Canada.

Copies of Report of the Anti-Inflation Board, dated March 19, 1976, respecting suppliers of property and casualty insurance.

BUSINESS OF THE SENATE

Senator Perrault: Honourable senators, I should like to point out at this time that it is the intention to have the Senate meet at two o'clock tomorrow afternoon in order to assure that the matters relating to supply are properly discussed, and that adequate opportunity is given to the Opposition to discuss the implications of the proposed expenditures.

● (2010)

Senator Flynn: The Leader of the Government has made a statement to the effect that we are going to meet at 2 o'clock tomorrow afternoon instead of tomorrow evening, as was arranged. Meetings of committees have been arranged for Tuesday morning and Tuesday afternoon. There is a meeting of the Standing Senate Committee on Legal and Constitutional Affairs called for tomorrow afternoon. May I ask the leader what is going to happen to the meeting of this particular committee, or any other committee that contemplated sitting at that time? It seems to me we are starting off on the wrong foot with regard to the new program.

[The Hon. the Speaker.]

Senator Perrault: Honourable senators, that would be the last thing the government would wish to do. Meetings had been scheduled for tomorrow afternoon of the Standing Senate Committee on National Finance, and, I believe, the Standing Senate Committee on Legal and Constitutional Affairs. The chairmen of both these committees have decided that it will not be necessary to hold those meetings tomorrow afternoon.

Senator Asselin: The members of those committees have not been consulted.

Senator Perrault: As I announced last week, it will be the intention to commence the block system of committee meetings next week.

Senator Flynn: Last week you said it would be next week.

Senator Perrault: Honourable senators, fortunately there is sufficient flexibility in this week's schedule to permit this kind of accommodation to be made, in the national interest.

Senator Flynn: May I ask the chairman of the Standing Senate Committee on Legal and Constitutional Affairs if his decision is the one reported by the Leader of the Government, and if he has willingly agreed not to have his committee meet tomorrow afternoon?

Senator Goldenberg: Honourable senators, having come in late, I did not know about this, but my deputy chairman advises me that this is what the committee will have to do.

Senator Flynn: Name him.

Senator Goldenberg: I appreciate the interest exhibited by the Leader of the Opposition in the meetings of our committee. He is a very valuable member, and I am very glad he spoke as he did.

Senator Grosart: You were told that that is what the committee would have to do. That is very interesting.

APPROPRIATION BILL NO. 1, 1976

SECOND READING—ORDER STANDS UNTIL LATER THIS DAY

On the Order:

Second reading of the Bill C-90, intituled:

"An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1976".—(*Honourable Senator Perrault, P.C.*).

Senator Perrault: Stand until later this day.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) ADOPTED

The Senate resumed from Thursday, March 25, the debate on the motion of Senator Sparrow for the adoption

of the report of the Standing Senate Committee on National Finance with respect to the supplementary estimates (B) laid before Parliament for the fiscal year ending March 31, 1976.

Hon. Allister Grosart: Honourable senators, I have already tried to indicate the very strange nature of the position we are in. To repeat, at the moment we are considering the report of the Standing Senate Committee on National Finance on supplementary estimates (B) for the year 1975-76 which ends, I think, on Wednesday. I shall not refer to the other bills that are before us, in addition to the appropriation bill, consideration of which has been stood until later today.

I hope to indicate, in discussing the report of the committee, that there are excellent reasons why honourable senators might wish to give much more consideration to the report of the committee, and therefore to supplementary estimates (B), than it will be possible to give with this kind of schedule. I hope to indicate there are matters that should concern the Senate in supplementary estimates (B), but whether they do in fact concern the Senate or not is, of course, another matter.

We had the minister, the Honourable Jean Chrétien, before us during our consideration of these estimates, and he was extremely frank in his evidence. It will have been noticed that there was some criticism in some sectors of the press about his frankness on that occasion. My own personal opinion is that it was a most welcome presentation by the President of Treasury Board, and I, for one, do not share the criticism levelled at him in some sectors of the press for his frankness.

● (2020)

Supplementary estimates (B), which are being reported on by the committee, will increase the total estimates for the year by some $2.6 billion. That is an increase of 9 per cent under supplementary estimates (A) and (B) over the already fantastically huge amount in the main estimates. Some of us hoped at the time that we considered the main estimates that they might be sufficient for the government's requirements, but apparently not.

We have a statement of government policy, which appears in the White Paper respecting the anti-inflation program. It is the policy of the government to limit increases in federal government spending to a percentage equal to the percentage increase in the gross national product. Unfortunately, honourable senators, here we are presented with another case of where the government says, "This is what we will do," and then presents us with facts pointing out that that is the very thing they won't do. The increase this year, as Mr. Chrétien told us, is 16 per cent, and there seems to be little hope that it will be anything less than 16 per cent next year, and I am sure that no honourable senator would venture to suggest it is likely that our gross national product will increase by 16 per cent next year. Once again we are in the position of having before us government statements which apparently have no basis in fact. I would hesitate to add that they have no basis in intent, although that appears to be the situation from the statement already made as to what we can expect in the way of federal government expenditures next year.

The committee took a very serious view of this situation and raised two major points. One was as to the necessity for a 16 per cent increase in spending in this current year, and the second was as to the validity of the whole system of government control and government management of our finances.

In case any honourable senator thinks I am exaggerating I should perhaps recall that a study—the first since the Glassco Commission examined the government's efficiency in relation to expenditures, which was, I think, back in 1962—called the Financial Management and Control Study was instituted by the Auditor General, who reported a few months ago. The Auditor General in releasing this study made this comment:

> The study leads to one clear conclusion: the present state of the financial management and control systems of the departments and agencies of the Government of Canada is significantly below acceptable standards and quality and effectiveness.

Honourable senators, I cannot think of a clearer indictment of the kind of thing we will be asked to approve later than that statement. We are told that the quality of the management of the spending of this money is substantially below any adequate level. But what is being done about it? We are told, "Well, this year we have cut $1.5 billion from the expenditures." I recall that the Leader of the Government, when we on this side suggested something better in the way of finanical management, has often replied, "Where would you cut?" How many times has he said that to us? Well, the President of the Treasury Board came along and said, "We can cut $1.5 billion," and he detailed very carefully the places in which those cuts could be made.

Senator Perrault: Let us be happy about that.

Senator Grosart: Unfortunately, I am not happy about it, senator, for the reason that when he was asked to show us where this $1.5 billion in cuts could be made he admitted that the real cuts amounted to only $450 million. The rest are what? With respect to the rest of these cuts—I could give you his exact words but I will paraphrase them—he said, "What we really cut were the spending intentions of the departments as of last November".

Senator Flynn: Expectations.

Senator Grosart: "Expectations," as the Leader of the Opposition says, is probably a better word. They were great expectations which were not fully realized, but Mr. Chrétien does say that he was able to cut $450 million. Well, I think I can indicate from the report of the committee that the figure of $450 million is far from being accurate.

The second matter with which the committee concerned itself was the fact that in these supplementary estimates is contained the largest number of transfers from vote to vote, I think, in history—certainly for as long as I have been looking at estimates, which honourable senators know is a number of years. There are the largest number of $1 items, and the largest number of $1 items which are transfers. So we ask, "What is the significance of transfers?" The committee had this to say:

> As in the past the committee was disturbed by one aspect of these $1 items. A substantial number of them authorize the provision of funds for unanticipated operating expenses through the deferral of capital

> projects. It is always preferable that the funds required be met by transfer within the authorized vote.

That, of course, is a standing rule. The report continues:

> As already pointed out, this forces departments to look after their essential programs. The committee objects to the deferment of capital projects in this manner because most of them will eventually be proceeded with and will then require a substantially increased total expenditure due to the continued rise in construction costs.

I see Senator Benidickson nodding, because he was one who pressed that point in committee.

What is happening here? We asked the President of the Treasury Board, "Is one of the reasons for this very high number of transfers the squeeze that you put on the departments?" Understandably, he said yes. So the department then said, "All right, we can find the money." Where did they find the money? In most cases they said, "We are going to postpone a capital expenditure for construction that has already been approved by Parliament." The words are "defer," "we will delay," "we will postpone," and "we will use that money to take up the slack, the deficit in operating costs." Of course, every one of those capital projects will be proceeded with next year, when the cost will be greater. So, far from being a saving, we are faced with the government pretending to save money and actually costing the taxpayer more. This is the kind of thing that we are asked to rush through by tomorrow night, without any further consideration, without any reasonable opportunity for any senator—I am quite sure that there are senators on both sides concerned about this—to study this matter and give the Senate the benefit of his or her views.

● (2030)

I can illustrate this for honourable senators by running through some of these transfers. I am looking at the report of the committee, because appended to the report of the committee is the official list of the $1 transfer items. Let us look at a few of them.

Perhaps I could start with External Affairs. External Affairs was able to find $2,900,000 "due to a delay in the acquisition of a site for a new Chancery in Washington." One would suppose that this government would say, "We are really cutting out unnecessary expense. We are going to save money." What do we find in the same sector? Funds are available. We have not spent them. What do we do with them? "We are going to transfer from vote 5 to vote 10b, which will give us some additional funds to make up an operating shortage resulting from currency revaluations during the year"—which should have been anticipated in the main estimates. "We made a mistake, so we will transfer the Washington Chancery saving to this vote to cover tenant service costs"—all of which were predictable—"and to meet some operating costs of the long-range accommodation program of the department"—whatever that may be.

Let us take another department—National Health and Welfare. We find some unspent money in vote 20—$700,000. It says:

> Revisions to two capital projects originally scheduled for construction in 1975-76 have forced deferment and have made funds available for this transfer.

[Senator Grosart.]

Where do we transfer these funds? We transfer them:

> To meet increased operating expenditures of the program for the balance of the current fiscal year.

That is all.

Let us try one of the other "hard savings" departments. Public Works found $6,898,996.

> Funds are available due to unforeseen delays in construction projects.

What can we do with that?

Senator Asselin: Transfer.

Senator Grosart: We find additional funds are required for operational and maintenance costs of some property in Moosonee, transferred from the Department of National Defence.

They then found some more money in the amount of $4,699,999:

> To provide for the increased costs of managing properties and for escalation clauses in leases.

The department is saying. "We could not even figure out what the rent was going to be for the year ahead. But we found some money, and it is available."

Let us try the Secretary of State, vote 20.

Senator Flynn: Disgraceful.

Senator Grosart: The Secretary of State found over $400,000 unspent.

> Funds are available since all of the grants provided to construct, expand or improve facilities for the performing arts in Canada will not be used ($354,999) nor will the proposed grant to Massey Hall be paid in this fiscal year.

"We will have to build it next year, like all the rest of these capital items. What do we use this one for?"

> (1) to provide a further $50,000 towards the cost of a study on the Canadian Film Industry.

We needed that badly, I imagine. And then:

> (2) to defray the cost of the visit of the Prince of Wales last April—

A year ago! A comment escapes me.

Senator Perrault: What page are you referring to?

Senator Grosart: I am at page 1950 of the *Debates of the Senate* of March 24, in the year of our Lord 1976.

Funds are also provided to defray the cost of the visit of the Queen to Canada next July. That is fine, but if the government is being honest with the public, that should be found not in this year's supplementary estimates, or this year's main estimates, but in the main estimates for the fiscal year ending March 31, 1977. On the one hand, the government says it is not going ahead with the grant to Massey Hall, and instead of accounting for those funds in the main estimates for the Queen's visit, which we would all applaud, it takes that money, by way of these supplementary estimates, and uses it for purposes of the Queen's visit. Next year, of course, we will spend the Massey Hall money. That is what I am objecting to.

Senator Perrault: It is admirable flexibility.

Senator Flynn: We know about flexibility.

Senator Grosart: I will not offer the Leader of the Government an alternate description to his description of "admirable flexibility." I would hardly trust myself. I have been trying to use parliamentary language all along.

Going on to the Department of the Solicitor General, vote 10, which is in the amount of $499,999, states:

> Funds are available because of unforeseen delays in the Penitentiary Service construction program.

That is fine. We will go ahead with it next year, but in the meantime do we save that money? Do we put it in the bank? No. What is done with it? It is used to provide for a Special Communications Unit, responsible for informing the public concerning the peace and security program of the government.

Senator Flynn: Shame!

Senator Grosart: We have funds originally slated for the Penitentiary Service now going into government propaganda.

Next, we have Transport. There are some dandies in Transport. We find that $1 million is available because of delays in construction of port and ferry terminal modification at Port-aux-Basques, Newfoundland. What is done with that? The funds are transferred from vote 45 to vote 1b, and the explanation is:

> Additional funds are required to cover the cost of the Inquiry into Air Canada's financial activities—

We save the money at Port-aux-Basques and use it to inquire into the government's own ineptitude.

Senator Lamontagne: It is still Transport.

Senator Perrault: It got you here safely this evening.

Senator Grosart: Let us try another. Again under Transport we find $800,000—

Senator Perrault: I wonder if I might ask the honourable senator a question? Was it not the loyal Opposition which asked to have an inquiry into Air Canada's financial activities? Now the honourable senator objects to that expenditure by the government. He cannot have it both ways.

Senator Grosart: I can assure the Leader of the Government that I do not want it both ways. I do not feel that the government should be transferring money from the Penitentiary Service into a Special Communications Unit, or from a construction program at Port-aux-Basques into an inquiry into Air Canada. I want the government to state in the estimates what the funds are to be used for, and not to announce in an appropriation bill what might be a major policy program of the government. An appropriation bill is not the place to do that. I am sure the leader is aware of that.

I am not suggesting that the Air Canada inquiry should not have taken place or should not proceed. Lord knows, it is long overdue. What I am objecting to is the manner in which the government is transferring funds from one program to another. I am sure the leader is aware of that. I am not suggesting that some of these expenditures are not worthwhile. As we go along, the leader will have several opportunities to say, "Well, isn't that a good expenditure?" and I will agree with him immediately, particularly when we come to Veterans Affairs.

Still dealing with Transport, we have a $4,893,999 "savings" in vote 15, and another of $849,999 in vote 20. What is done with those funds? We will use this to provide for the price increases in petroleum products, something we knew all about at the start of the year.

● (2040)

Senator Perrault: Of course we did not know.

Senator Grosart: They knew prices were going up. It was part of government policy. We had a government paper telling us exactly what was going to happen.

Senator Perrault: You must have a crystal ball.

Senator Grosart: All the same, it does not matter; we have to pay. I am merely saying that here again we are paying operating costs out of funds voted by Parliament for capital expenditures and those capital expenditures will go ahead at greater cost. Every time the Leader of the Government wants me to repeat that I will do so if he just asks or encourages me.

Under Transport we did not go ahead with a bridge.

Senator Perrault: What page are we on?

Senator Grosart: Page 1951, half-way down the second column, vote 90, under Transport. We find $674,999, or Transport did.

Senator Flynn: You are going too fast for the Leader of the Government.

Senator Grosart: I will go a little slower.

Senator Perrault: You are skipping all over the place.

Senator Grosart: It says:

> Funds are available due to the deferral of a bridge repainting project.

It does not say what the bridge was or why it cost $674,999 to repaint it. However, I will not argue that. Let us see what we did with that. We transferred this to vote 92b. This is to meet the operating deficits at the ports of Churchill and Prince Rupert. Of course, we had to meet them. Again I say, if this government cannot in its main estimates come reasonably close to estimating the operating deficits at the ports of Churchill and Prince Rupert, which could have been done—

Senator McDonald: Are we going to paint the bridge?

Senator Grosart: We will paint the bridge next year, when the cost of paint has gone up and when the cost of labour has gone up. We do not know where the bridge is; it does not say; we are not told. It has not been the policy of the government to disclose too much; it does not say where the bridge is.

Let us try another. I will not weary honourable senators too much; I have picked out ten or twelve. Let us look at Veterans Affairs. This is on page 1952. Here we find:

> Funds are available due to the deferment of certain capital projects.

These were in one case to pay for uncollectable debts and in another to cover the increased costs of treatment services. Of course, a worthy cause; nobody doubts that. But here again it is operating expenditure paid for out of deferment of a capital project. To anybody who knows anything about accounting it distorts all accounting; it

distorts and denies the statements made by the government that they are saving money.

Let us take another, from External Affairs. Here again they have experts at finding money. They found some more from delaying the acquisition of a site for a new chancery in Washington. You see, they did not put it all into the one I mentioned earlier. They said, "Let us see if we can use some more of these funds and do something with it. Yes, we are going to use this to provide grants in lieu of taxes on diplomatic and consular properties in Canada." Nobody can tell me that at the beginning of the year in the main estimates it was not possible to estimate the taxes on diplomatic and consular properties in Canada—not somewhere else but in Canada. Let us see how far we were out. We were out about $500,000.

Senator Flynn: Peanuts.

Senator Grosart: Peanuts. What is $500,000?

Under Labour we have the classic statement. The Department of Labour found $69,999 through:

> Reorganization of the department and resultant delays in staffing certain positions.

Agreed, they have saved the money; they have reorganized the department to save the money. What did they save? These things have "freed resources." That is the official statement of the government; they have freed them; the money is free. What for?

Senator Perrault: To help the working people?

Senator Grosart: Again for a good cause, yes. But they are free. As I said before, I am objecting to the principle of hiding increased operating expenditures behind a pretended saving by operating capital projects voted by Parliament. As I said, I will repeat that as often as the Leader of the Government encourages me to.

The Secretary of State also reduced expenditures under the Citizenship Promotion Activity. How much did he save? Not much. This is a small one, $33,000. But then it was found necessary—and here is one we would all agree with:

> To provide a grant to the Province of Newfoundland to commemorate the 25th anniversary of its entry into Confederation.

A good cause if ever there was one. Where did we get the money? Good old Massey Hall. For the benefit of the Leader of the Government, it is in the second column on page 1952:

> Funds will be available since the proposed grant to Massey Hall will not be paid in this fiscal year.

It will be paid next year; Newfoundland is the beneficiary, and we are all happy about that, but they do not get the whole $500,000. I will leave where the rest goes.

Senator Perrault: To help Newfoundland.

Senator Grosart: Oh yes, and it should be a good celebration. Much more important to celebrate this than go ahead with old Massey Hall in Toronto.

Honourable senators, I bring these matters to your attention because the committee has commented on them, perhaps less abrasively than I have. Nevertheless, I suggest it is important that this Senate be given more time than we are being given now to look at these matters. I say that because I would like some honourable senator to get up and tell me I am wrong, that this is not happening, that I am not able to read these figures. I would like some honourable senator on the other side, or on this side, to get up and tell me how they should be looked at. We should do more than consider the report of the committee at half-past eight or so tonight, and then presumably, at the request of the Leader of the Government, pass the appropriation bill based on these kinds of facts later on tonight, or at least, according to his suggestion, in time for royal assent tomorrow night.

I am one who believes that this Senate and the Standing Senate Committee on National Finance have a very important role to play in scrutinizing the expenditures of the government. To those who say from time to time that it is not our business, the obvious answer is that supply is the business of Parliament, not of any one house of Parliament. I believe we have this role to play. We have in the past played the role. I have had the privilege of serving on the National Finance Committee under some outstanding chairmen and I believe important contributions have been made. I hope that we will make another contribution in this very field when we deal with the next set of estimates. I am going to ask that Treasury Board supply us with a complete list showing every capital construction project that has not been proceeded with. In committee I asked a senior official, "If I remember that in the main estimates Parliament said such-and-such construction work is to go ahead, let us say in my constituency, and it has not gone ahead, can anybody tell me about it? Is there any way I can know?" There is no way in the world. Even when this money is transferred, when the project is abandoned, as it is and as it will be, if and when we pass this appropriation bill it is abandoned and nobody knows about it. I intend to ask for a complete list. I should like to know where that bridge was on which we saved the $674,999 by not painting it. I should like to know the details of all of these others as well. I think that is important.

● (2050)

Honourable senators, I repeat that I regret we are being put in this position once again of having to rush through serious matters such as this in the time we are asked to do it.

The Hon. the Speaker: It is moved by the Honourable Senator Sparrow, seconded by the Honourable Senator Godfrey, that this report be now adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Flynn: Reluctantly.

Motion agreed and report adopted.

DISTINGUISHED VISITOR IN GALLERY

HONOURABLE MURIEL McQUEEN FERGUSSON, P.C.—FORMER SPEAKER OF THE SENATE

The Hon. the Speaker: Honourable senators, I should like to welcome another distinguished guest in the gallery, the former Speaker, the Honourable Muriel McQueen Fergusson.

Hon. Senators: Hear, hear.

APPROPRIATION BILL NO. 1, 1976

SECOND READING—DEBATE ADJOURNED

Hon. Léopold Langlois moved the second reading of Bill C-90, for granting to Her Majesty certain sums of money for the public service for the financial year ending 31st March, 1976.

He said: Honourable senators, Bill C-90, which was introduced on Thursday last in this chamber, provides full supply for the second or final supplementary estimates for 1975-76, totalling $921 million. These estimates contain voted items of $343 million, and also revisions to earlier forecasts of statutory items of $578 million. These supplementary estimates provide for adjustments to costs of existing programs, and some items which do not involve the expenditure of new funds but which are simply accounting adjustments.

Honourable senators will recall that royal assent has already been given to three supply bills covering estimates for the current fiscal year. The first provided interim supply for the months of April, May and June of 1975; the second, assented to on June 26, 1975, provided full supply for the balance of the main estimates; the third, assented to on December 15, 1975, provided full supply for supplementary estimates (A) for 1975-76.

The estimates on which the present bill is based were tabled in this house and referred to the Standing Senate Committee on National Finance on March 3 last. They were discussed with the President of the Treasury Board on March 10, 1976, and were discussed again on March 23 with his officials.

These estimates bring the total for the fiscal year to $32,257,000,000, not inclusive, of course, of the old age security fund of $3,969,000,000. I should like to return to that item later.

The following is a list of the larger items included in the supplementary estimates. Honourable senators will note that almost all payments by the government are for assistance to provinces, individuals or some other segment of the economy. The amounts are as follows:

$186 million for the two-price wheat program, which keeps the price of bread down;

$155 million for public debt charges;

$114 million to cover the final deficit in the old age security account—and, again, I will return to that item later.

$113 million for various fiscal transfers to provinces;

$107 million to provinces to cover our share under provincial welfare plans;

$40 million to compensate the railways for operating unprofitable services to the public;

$35 million for the 1975 deficit of the Canadian National Railways;

$26 million to set up a drawing account for temporary advances in the operation of the defence program;

$24 million towards our share of the provinces' university education costs;

$23 million to provide for forgiveness of an old loan to Romania, a loan dating back to the First World War; and

$22 million for price support payments to farmers.

These eleven items total $845 million, or around 90 per cent of the total supplementary estimates.

As promised by the President of the Treasury Board, quite clearly in this year the total expenditures have been held to a 16 per cent increase over those of 1974-75, according to the most recent calculations. This percentage increase, which is inclusive of the final supplementary estimates, has been maintained in the face of the inflation which we have been living through, with the pressures it placed on indexed social programs, on interest rates, on capital costs, and on salaries and goods and services. In meeting this target a number of departments have absorbed all or part of the increase in costs in excess of previous estimates by exercising restraint across the ministry through complete or partial offsets in the same vote or by transfer from another vote.

These supplementary estimates contain 45 $1 items, which may be grouped as follows:

(a) 27 items which authorize the transfer of funds from one vote to another;

(b) 9 items which authorize the payment of grants;

(c) 4 items which authorize the deletion of debts due the Crown;

(d) One item which authorizes a financial guarantee;

(e) 3 items which amend the legislative provisions of previous appropriation acts; and,

(f) 1 item which amends an act other than an appropriation act.

Explanations of these $1 items were provided to the National Finance Committee for their review.

As I promised earlier in my remarks, I will now supplement the information which was provided to the National Finance Committee by officials of the Treasury Board regarding the $114 million covering the final deficit in the Old Age Security Account.

As honourable senators will no doubt recall, prior to June 28, 1975, the Old Age Security Act provided for a fund to which would be credited 4 per cent of personal income tax, with a maximum of $240 per person per year, 3 per cent of corporation tax, and 3 per cent of sales tax, and against which would be charged the payments made for old age security and guaranteed income. The act also provided that should a deficit occur in the fund, amounts would be advanced by the Minister of Finance and action taken at the end of a year to clear these advances. Since there were deficits in 1973-74 and 1974-75, items were included in the final supplementary estimates of both years to cover these deficits. The amount of $114,035,156 included in supplementary estimates (B) for 1975-76 represents the deficit in the fund for the period from April 1, 1975 to June 27, 1975, which is due mostly to indexing.

● (2100)

Bill C-62 amended the Old Age Security Act effective June 28, 1975, by cancelling the old age security fund and thereby making the OAS/GIS payments budgetary expenditures, similar to family allowance payments, and requiring that the receipts be credited directly to the Consolidated Revenue Fund as tax revenues. This is a complete

departure from the previous method of accounting for this fund.

As a result of the change, OAS/GIS payments amounting to $4,506,182,000, broken down as to $3,354,280,000 for OAS, $1,051,902,000 for GIS, and $100 million for spouse's allowance payments, have been shown in the 1976-77 main estimates for the first time.

I wish to conclude my remarks tonight on this bill by expressing the hope that I have covered its important features. It remains only for me to say in closing that if any further information is required by honourable senators I shall do my best to provide the same.

On motion of Senator Flynn, debate adjourned.

APPROPRIATION BILL NO. 2, 1976

SECOND READING—DEBATE ADJOURNED

Hon. Léopold Langlois moved the second reading of Bill C-91, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

He said: Honourable senators, the main estimates for 1976-77, on which this bill is based, were tabled in the Senate and referred to the Standing Senate Committee on National Finance on February 19, 1976. This committee will have ample opportunity to discuss them and report to the Senate thereon before we are called upon to give final approval.

Before I go on with my remarks concerning this bill, I should like to digress for a moment to refer to a suggestion made some three or four weeks ago in this chamber by Senator Croll. It was to the effect that more opportunity should be given to the Senate to discuss governmental expenditures. This suggestion was supported, both in this house and in committee, by Senator Benidickson and other honourable senators.

It will be recalled that at that time, after having reminded honourable senators of the opportunity presently given to them to consider both the main and supplementary estimates in this chamber and in the Standing Senate Committee on National Finance, I undertook to give full consideration to the suggestion of our colleagues and to study the mechanics by means of which further consideration could be given to estimates in this chamber, apart from the opportunity already afforded to honourable senators to debate reports of the Standing Senate Committee on National Finance, interim supply bills and other appropriation bills based on supplementary estimates.

After consultation with honourable senators and senate staff, it seems to me that the most appropriate way of obtaining the desired result would be for any honourable senator wishing to bring estimates of a particular department to the special attention of this chamber to do so by way of notice of inquiry, specifying any item or group of items of a particular department in which he is interested.

Senator Flynn: There is nothing new in that.

Senator Langlois: It is only a suggestion.

[Senator Langlois.]

Senator Flynn: But there is nothing new in it. We have always been able to do that.

Senator Langlois: It just a suggestion as to one way of doing it.

In my opinion, several such notices of inquiry could be given in any one session, provided there were no repetition of an item already brought to the attention of the house in this way. Furthermore, it would also seem to me to be quite proper to introduce or initiate such inquiries irrespective of the fact that the Standing Senate Committee on National Finance has already reported to the Senate on any main or supplemantary estimates referred to it for consideration, as long as the estimates forming the subject matter of the inquiry have already been tabled in this chamber. This is a condition which is necessary, because we could not study estimates which have not been tabled in this house.

As I said in replying to the comment by the Leader of the Opposition a few minutes ago, this is merely a suggestion. We were looking for a way of doing this, and I am passing on this suggestion to the Senate. I am, of course, in the hands of the Senate, and the Senate will be the body that will decide in the final analysis. I present the suggestion for what it is worth, and I hope it will receive favourable consideration.

Coming back to the bill before us, the 1976-77 main estimates total $39,545 million, consisting of budgetary expenditures of $38,417 million and non-budgetary expenditures of $1,128 million. This bill, in the amount of $4,970,-732,370.57, is the first interim supply bill for the 1976-77 fiscal year, and will release a general proportion of three-twelfths of the items to be voted in these estimates as well as additional proportions for 35 votes.

This bill provides for all necessary requirements of the public service to June 30, 1976. It is in the usual form of previous interim supply bills and in no instance does it request the release of the total amount of any vote.

In general, the 35 votes which require additional portions may be grouped as follows:

(a) Votes for which it is necessary to pay grants early in the fiscal year. An example of this is: Secretary of State, vote 90.

(b) Votes for which additional sums are required to finance programs until forecast revenues are received later in the fiscal year. For example: Finance, vote 20; Supply and Services, votes 1 and 15; Transport, votes 65, 90 and 110.

(c) Votes which provide for payments incurred on a calendar rather than fiscal year basis. For example: Transport, votes 40 and L75; Urban Affairs, vote 15.

(d) Votes for which additional proportions are required because expenditures are greater than in the early part of the year. For example: Energy, Mines and Resources, vote 1, L45, L50, L55 and 70; Environment, vote 15; Finance, vote 5; Indian Affairs and Northern Development, votes 5, L60, L65 and L85; Industry, Trade and Commerce, votes 55 and 75; Manpower and Immigration, vote 10; Post Office, vote 5; Privy Council vote 25; Regional Economic Expansion, votes 25 and L35; Secretary of State, vote 15; Solicitor General, vote 1; Transport, vote 50; Treasury Board, votes 5 and 10; Urban Affairs, votes 10 and 20.

● (2110)

I wish to add that this bill also provides borrowing authority for $6 billion. This borrowing authority was discussed at some length in the other place, and it is very interesting to read what was said there in connection with this subject, although most of the discussion centered on the amount of the borrowing authority when compared to that sought in previous years. It also has a connection with the public debt of Canada, which was fully discussed by members of the House of Commons.

In closing my remarks, I again offer to supply honourable senators with any information they might wish in connection with this bill, and I shall endeavour to do my best in this respect.

Senator Flynn: May I ask the sponsor of the bill if he will agree to having it referred to committee in order that we might inquire into this borrowing authority and what it implies?

Senator Langlois: If honourable senators wish, I have this information available and I am ready to give it now.

Senator Flynn: I understand the deputy leader is well versed in all the affairs of all the departments of government, but it seems to me that he is not necessarily the best witness.

Senator Langlois: I grant you that I am not the best witness, but you know where I am getting the information from. As a lawyer, I know that you will call whatever I say hearsay evidence, and if given before the committee it probably could still be considered as hearsay evidence. However, if the honourable senator wishes me to elaborate on this, I am ready to do so right now.

Senator Flynn: Well, I am in fact asking a question, the answer to which I understand to be no. If the answer is no, we might as well wait until the end of the debate when perhaps you could supply us with the information in your closing remarks. If that is the way we are going, then we might as well wait.

Senator Langlois: I regret having to refuse my honourable friend anything. He knows I always try to please him.

Senator Flynn: But you don't always succeed.

Senator Langlois: Well, it may be that you are very hard to please, but your judgment in this regard is better than mine.

Due to the urgency which was explained earlier to the house, as the leader said, we regret being placed in a position where it would be very difficult to proceed with this bill in committee.

Furthermore, it has been the practice of this chamber not to refer such bills to committee. I remember, as I am sure my honourable friend also remembers, the many debates we have had in past sessions on this subject. The more we discussed it, the further we seemed to be from a solution to the problem. I do not think further discussion at this stage would serve any useful purpose, but I repeat that I shall be pleased to comply with any request for information in that respect from my honourable friend.

Senator Flynn: I just wanted to find out if the deputy leader had changed his mind. I thought that perhaps by a miracle he might have become more flexible.

Senator Phillips: Honourable senators, before moving adjournment of the debate, I must say I was rather surprised to hear my leader say that he thought that perhaps the government had become more flexible in the meantime. I am sure it was a slip on his part. However, to get clarification on this, I move the adjournment of the debate.

On motion of Senator Phillips, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, March 30, 1976

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

Prayers.

THE HONOURABLE JOSEPH A. SULLIVAN

FELICITATIONS ON RETURN TO CHAMBER

Senator Perrault: Honourable senators, may I note the return to the chamber of Senator Sullivan. We have all missed him. I know that his friends in the loyal Opposition have missed him. We are delighted to have him back in apparent buoyant good health.

Hon. Senators: Hear, hear!

Senator Sullivan: Honourable senators, no one is more happy to be able to walk into the Senate chamber than I am. Thank you for the welcome.

FEEDS ACT

BILL TO AMEND—CONCURRENCE BY COMMONS IN SENATE AMENDMENTS TO COMMONS AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendments made by the Senate to the Commons amendments to Bill S-10, to amend the Feeds Act, without amendment.

CRIMINAL LAW AMENDMENT BILL, 1975

CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendments made by the Senate to Bill C-71, to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

THE PUBLIC SERVICE

BANK'S REFUSAL TO CASH GOVERNMENT PAY CHEQUES—QUESTION

Senator Flynn: Honourable senators, may I ask the Leader of the Government if he has any comment to make on the article which appeared in this morning's *Globe and Mail* entitled, "Workers get shock at bank: Government cheques NSF." Maybe the Leader of the Government hasn't read it. Apparently a bank here in Ottawa yesterday refused to cash cheques made payable to the staff of the House of Commons.

Senator Perrault: Honourable senators, I shall not comment at this time on the cheque cashing policy of our private banking institutions. However, I note with interest that the cheques are dated March 31, and an effort was made to cash them on March 29. Perhaps an effort will be made to cash more of them today. The government is not in default of its responsibilities, and I hope that no one in this chamber is in default of their responsibilities later this day.

Senator Flynn: That is a very interesting suggestion. Does the government leader think this article is somehow connected with the fact that the appropriation bill before us came to the Senate very late and that some people fear we may not process it in time?

Senator Perrault: That kind of criticism can be made only by those with a narrow partisan interest, and I certainly do not accuse the honourable Leader of the Opposition of any such motive. I realize that he and other honourable senators know that it is through circumstances beyond the effective control of the government that this supply situation has arisen and that the bills relating to supply have arrived here later than any honourable senator would have wished. Indeed, they have arrived later than the government would have wished.

I would remind the house, however, that debate in the other place has been protracted over many days, and even weeks, in regard to a number of matters of public interest, thus affecting the schedule of activities. I join with the honourable senator, of course, in urging the other place to send to us important measures of this kind as soon as possible, because circumstances like these present serious difficulties for all of us here. We understand that.

Senator Flynn: I am quite sure the Leader of the Government wishes to assure the Senate that he will not submit to the whims of the Leader of the Government in the other place and that he will see to it that the leader in the other place realizes that we need some time to pass these bills and that when they come, as they do, at the last possible minute it does not give us the opportunity really to do our duty properly.

Can the Leader of the Government tell me if it is possible that the government would issue cheques where no funds were available to honour them?

Senator Perrault: I wish to assure honourable senators that that is not the case. The government would not issue cheques on the basis of any empty bank account. The credit of the Government of Canada, in effect the credit of the people of Canada, stands among the best in the world. There is no doubt about the capacity of this nation to meet its obligations.

Senator Flynn: That is not my question.

Senator Bourget: It is part of the answer.

Senator Perrault: With respect to the urgency of supply, honourable senators are aware of the fact that leaders of

opposition parties in the other place have exercised their full right to participate in the discussion in the other place on the subject of supply. Indeed, some of the opposition members have made long speeches over there, which is their right, but this again has added to the delay in the scheduling of the measures which are before the Senate today.

I want to assure honourable senators that there is no reluctance on my part to advance the interests and needs of this chamber on every possible occasion. The best evidence of that is the fact that this current session has seen more matters referred to the Senate than has been the case in recent years, and we shall continue to improve that process, if it can be done.

Senator Flynn: May I ask the Leader of the Government a question? When do we in the Senate have to pass the two appropriation bills so that cheques won't be refused by banks or won't be delayed by the government?

Senator Perrault: Honourable senators, it is felt that it would be desirable to have these matters dealt with today in the usual detailed fashion that the Opposition accords to matters of this kind, and that it might be possible to invite Her Majesty's representative here at 9.45 this evening for royal assent.

Senator Flynn: Would tomorrow be too late?

Senator Perrault: Honourable senator, I know that we do not want to cause undue anxiety on the part of thousands of employees of this government who are working so diligently to advance the national interest.

Senator Grosart: You should have thought of that earlier.

Senator Flynn: That was the first answer the Leader of the Government should have given us. So in a few words, the Senate is bound to pass this bill today or tomorrow at the latest. That is the point.

Senator Langlois: Probably today.

● (1410)

FOREIGN AFFAIRS

SALE OF NUCLEAR REACTORS—SUPPLEMENTARY QUESTION

Senator Manning: Honourable senators, I believe it was about two weeks ago that I asked the Leader of the Government if he was in a position to make a statement on the intentions of the government in the matter of the sale of nuclear reactors to various countries. I am not certain if an answer has been given. If it was, I may have been away. I notice, however, from news reports that apparently the government is continuing its policy of selling or endeavouring to sell nuclear reactors to a number of countries. Argentina has been mentioned recently, for example, as has South Korea. I think honourable senators will agree that these certainly are countries whose governments are far from stable, and I would not think the Government of Canada would want to place reliance on a mere undertaking as to the use that would be made of fissionable material.

I wonder if the Leader of the Government could enlarge on this matter? I do think that a great many people across this country regard this as being a serious matter.

Senator Perrault: Honourable senators, in view of recent political events abroad, I suggest that I take this question as notice and endeavour to provide a fuller reply at some later date.

PUBLIC SERVICE COMMISSION

NEW OFFICES—INTERIOR WALL DECORATION—QUESTION ANSWERED

Senator Perrault: Honourable senators, may I attempt to reply to a question asked by the Honourable Senator Forsey, on March 23? Senator Forsey stated that he had heard reports that the new quarters of the Public Service Commission included walls decorated with suède. He suggested that the stories were "astonishing," and many honourable senators found themselves in accord with those sentiments.

I am informed that the situation is as follows. Because of the increase in the activities of the commission over recent years, especially in the language training area, the commission's headquarters in Place de Ville had become too small to accommodate all the employees and as a result they were dispersed in many different locations in the National Capital Region. Last spring the Department of Public Works moved the commission's offices to l'Esplanade Laurier. A budget of $2.4 million for fitting up the new building was approved, based on an estimated cost of $6.75 per square foot. I am informed that the commission operated within this budget.

Senator Flynn: Including suède walls?

Senator Perrault: As for the report of suède walls, I can inform honourable senators that they do not exist. The walls in the core area, that is, the entrance area, hallways and corridors, of the executive floor are covered with a synthetic fabric which looks like suède but which is not. The additional cost of this fabric amounted to $6,500 for the entire floor, which represents 22,153 square feet.

With respect to furnishings, specific instructions were issued and no new furniture was purchased in connection with the move to l'Esplanade.

In short, we have here a case of no new furniture and only synthetic suède walls.

Senator Flynn: "Synthetic" is a very appropriate word for this government.

Senator Perrault: I will not comment on the quality of the utterance from the Leader of the Opposition.

Senator Grosart: I thought I heard the Leader of the Government say that the synthetic suède walls cost $6,000 to cover 153 square feet. Did I hear him correctly?

Senator Perrault: I am pleased to correct that figure. The sum was $6,500 for the entire floor, which represents 22,153 square feet of wall covering.

Senator Forsey: I wonder if I might ask a question of the Leader of the Government? What would have been the cost of painting the walls, the way ordinary people do?

Senator Perrault: Honourable senators, I hesitate to say that I will take the question as notice since the honourable senator would probably know what several tins of latex would cost.

TRANSPORTATION

CANADIAN NATIONAL RAILWAYS—SERVICES IN ATLANTIC PROVINCES—QUESTIONS ANSWERED

Senator Perrault: Honourable senators, two questions were posed by Senators Macdonald and Riley on March 22 regarding CNR service. Senator Macdonald asked if it is the intention of the CNR to abandon the rail passenger service between Sydney and Truro and to substitute a bus service. Senator Riley asked whether it is the intention of the Canadian National Railways to apply to CTC to abandon all rail services on Prince Edward Island. The reply is as follows:

The CNR has assured us that they are making no plans whatsoever to abandon the rail passenger service between Sydney and Truro and to substitute it with a bus service or to abandon all rail services on Prince Edward Island. Honourable senators can be assured that both the Railways Act and the National Transportation Act protect the public interest and the provision of essential services by requiring CTC public hearings before the railways can be authorized by the CTC to undertake any major change in services.

Even though railways do not intend to abandon all rail passenger services they must file for abandonment with the CTC, should an event of this kind occur elsewhere, in order to get the 80 per cent subsidy payments on their losses, as per the Railway Act.

APPROPRIATION BILL NO. 1, 1976

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Langlois for the second reading of Bill C-90, for granting to Her Majesty certain sums of money for the public service for the financial year ending 31st March, 1976.

Senator Jacques Flynn: Honourable senators, after the exchange I had with the Leader of the Government, I don't know if it is of any use whatever for me to take part in this debate. He would probably prefer that I remain in my seat and let the bill pass second and third reading and receive royal assent tonight in order to forestall any criticism of the government or, which is more important, of the Senate. I say that because every time the Senate takes more than a few hours to deal with an appropriation bill at the end of a fiscal year, we are invariably accused of being responsible for the fact that public servants might not be able to cash their pay cheques. I think the record should show that this particular bill, Bill C-90, received first reading last week, on Thursday to be precise, and we started dealing with it on second reading last evening, in accordance with our rules. We have not in any way delayed, either through the actions of the Senate as a whole or through the actions of the Opposition, the proper handling of this bill. At any rate, in view of the circumstances my remarks will be brief.

I should like first of all to deal with the problem which I have raised on previous occasions in connection with appropriation bills dealing with supplementary estimates. I ask for a clear answer from the sponsor of the bill who, as usual, was very eloquent but a little briefer than usual in his explanation of the bill. That was not a bad thing under the circumstances; the less he says the less he is likely to obtain in reply. My question is why, in a supplementary estimates appropriation bill, do we have this paragraph found here in clause 3(2) which says:

> 3. (2) The provisions of each item in the Schedule shall be deemed to have been enacted by Parliament on the 1st day of April, 1975.

Does it mean that we are giving retroactive power to the government in respect of these estimates? Does it mean that the government contracted or entered into a commitment prior to the passing of this bill and prior to this bill's receiving royal assent, and that we are now sanctioning these commitments or agreements? I wonder whether this is in effect what is happening. I cannot understand it, but it appears to be standard practice. However, it seems strange that we should find in a bill a provision which would in effect assure the government that if it has already entered into an agreement or even paid moneys which are only now provided for by this bill it does not matter, as the provisions of each item shall be deemed to have been enacted by Parliament on the first day of April, 1975. I would like the sponsor of the bill, or anyone else, to tell me if the effect of this provision is that which I have suggested? In my opinion it cannot be anything else. If Parliament is not to be made a rubber stamp—and I have detected an unfortunate drift in that direction in the past few years—as far as expenditures of government are concerned, this clause should certainly not be included.

● (1420)

Senator Grosart last night, in dealing with the report of the Standing Senate Committee on National Finance on the supplementary estimates, expressed the view that not only Parliament but the government itself is losing control over expenditures. He quoted from a report of the Auditor General of Canada, which I believe is worthy of being repeated. It refers to a study carried out by the Auditor General, and says:

> The study leads to one clear conclusion: the present state of the financial management and control systems of the departments and agencies of the Government of Canada is significantly below acceptable standards of quality and effectiveness.

That has come to be my conviction over the years I have spent in the other place and in this chamber. Not only is Parliament losing control because it cannot under the circumstances in which it operates apply an effective control over government expenditures, but the government itself is losing complete control. Of course, one fact that proves the last point, the loss of control by the government, is the comparison between the main estimates and the supplementary estimates. The report of the Committee on National Finance on the supplementary estimates sets forth a table at page 1948 of Senate *Hansard* of March 24. That table indicates that over the years the percentage increase of the supplementary estimates over the main estimates has gone from 2.8 per cent in the fiscal year 1969-70 to 21 per cent for the fiscal year 1974-75. By the way, I am not discussing the growth in the budget itself but am referring to the fact that over the last three years the total estimates have practically doubled. At any rate, as far as the supplementary estimates are concerned, last

year the increase was 21 per cent in comparison with an increase of 2.8 per cent in the fiscal year 1969-70. This year it is being stated as nine per cent.

I should like to put forward a correction which, in my opinion, should be made to the report of the Standing Senate Committee on National Finance. In connection with the presentation of supplementary estimates over the past few years, there has been established a practice of transfer payments. That subject was dealt with last night by Senator Grosart. The government has said, "Well, if we do not use the money in the way intended in the main estimates, we will use it for something else." But if they do that, they are admitting that the amounts now being provided by transfer were not foreseen as necessary at the time of the main estimates. Some expenditures that had been foreseen proved unnecessary, but others cropped up that had not been foreseen, and so now the government is providing for those expenditures they had not foreseen with money provided for expenditures which proved unnecessary.

When I checked the transfer payments in supplementary estimates (A), which we passed in September, I found that they amounted to $41,229,700. In supplementary estimates (B) the total amount of the transfer payments has risen to $51,244,000.

That figure is not peanuts. Together the two figures amount to $92,473,700, which adds approximately 0.5 per cent to the 9 per cent mentioned in the report. Imagine, $92 million that was not foreseen and which will now be spent because other programs or other expenditures were abandoned.

This is a way for the government to cover up a very serious situation. I suggest that increasingly we see that the government is unable to prepare the main estimates in a realistic manner and later has to bring in supplementary estimates—and hidden supplementary estimates such as this $92 million in the guise of transfer payments. It means that the commitment made by the President of the Treasury Board, that next year he has set an upward limit of $1.5 billion as a target for the allocation of funds to supplementary estimates, is entirely unbelievable and unrealistic.

These estimates and the report of the committee prove that the government is unable to control its expenditures. The government has on several occasions referred to its so-called policy of restraint. Last year we were told that the government was going to cut $1.2 billion, and, for this fiscal year, over $2 billion. Just imagine what the situation would be with regard to these unexpected expenses, which are not only in fields where the government is bound by statute but also in fields where they should have some control because they involve new programs or, as was shown by Senator Grosart, expenditures that could be foreseen.

In any event, I point out to honourable senators that, at a time when we are invited to pass Bill C-90, government control over expenditures is practically non-existent, and that because of the situation in which the Senate is put, and because of the situation in which the House of Commons finds itself because of its system of proceeding with these estimates, Parliament has really no control over the public purse and, as a result, the taxpayer suffers.

It is about time that we had something other than promises about controlling anticipated expenditures.

Hon. Léopold Langlois: Honourable senators—

The Hon. the Speaker: I wish to inform honourable senators that if Senator Langlois speaks now, his speech will have the effect of closing the debate on the motion for second reading.

Senator Langlois: Honourable senators, I shall endeavour to be as brief as possible in my reply to the speech made by the Leader of the Opposition. By so doing, I will be taking his very good advice that, the less you say, the less you have to account for later on.

● (1430)

Senator Flynn: I may speak on third reading.

Senator Langlois: The Leader of the Opposition commenced his remarks by quoting a statement of the Auditor General, which was read into *Debates of the Senate* last evening, but in so doing he neglected to relate it to the year in which it was made. For the benefit of honourable senators, I wish to read what was said by Senator Grosart in this respect last evening, and I quote from page 1967 of yesterday's *Debates of the Senate*:

> In case any honourable senator thinks I am exaggerating I should perhaps recall that a study—the first since the Glassco Commission examined the government's efficiency in relation to expenditures, which was, I think, back in 1962—called the Financial Management and Control Study was instituted by the Auditor General, who reported a few months ago. The Auditor General in releasing this study made this comment:
>
> > The study leads to one clear conclusion: the present state of the financial management and control systems of the departments and agencies of the Government of Canada is significantly below acceptable standards of quality and effectiveness.

I wish to point out to honourable senators that in his remarks Senator Grosart referred to the fact that this was the first such study by the Auditor General since 1962. There have been intervening governments, and possibly the same situation existed in the past as the one reflected in the statement by the Auditor General. I say that to place the statement in its proper perspective.

The Leader of the Opposition went on to say that the government has lost control of its expenditures, as well as making a point of the fact that supplementary estimates (B) are coming to us at this late stage of our present session and just a few days before the end of the current fiscal year.

Earlier today, reference was made to the article appearing in the *Globe and Mail* of today's date entitled "Workers get shock at bank: Government cheques NSF." I have been informed by Treasury Board officials that this article is absolutely accurate in its recounting of the events leading to the situation described. It is possible that this situation was partly created by the debate which took place in the other place during the course of the consideration of this measure at the end of last week, at which time mention was made of the urgency of its passage. Apparently, some employees of the House of Commons went to a local

branch of a bank and endeavoured to cash cheques in advance of the date for which the cheques were made payable.

Senator Asselin: The Bank of Montreal.

Senator Langlois: I do not think I need mention the name of the bank. It could have been any branch of any bank in this country. We have to bear in mind that government represents a very large business. These cheques are sent right across Canada, and to foreign lands where there are government employees. The cheques themselves are dated over a period of three days, starting tomorrow and going into Thursday and Friday, in order to avoid a rush on our banking institutions in those cities where there is a high concentration of government employees.

I do not think we should lose sight of the fact that to us, as members of Parliament, these cheques may not be that important. However, for those public servants who are in the lower income brackets, it is important that the money be available when due. Otherwise, they may not be able to look after their financial needs through to the next pay period. For those employees, it is an important factor.

I do not lay the blame for this situation on any member of this house. As I said last evening, we regret being placed in the unfortunate position of having to deal with these appropriation bills on such short notice. This has been a regular occurrence over the ten years I have been a member of the Senate. We have always been getting these supply bills at the very last moment, and asked to act on them quickly.

Senator Asselin: I wonder if I might ask the honourable senator a question?

Senator Langlois: I would prefer to finish my remarks before answering any questions. Perhaps you would not mind waiting until I finish.

Senator Asselin: I shall try.

Senator Langlois: As my leader said last evening, we regret being placed in this position. When the government house leader in the other place called me last Friday morning in connection with these two bills, urging, as he did, that it was very important that they be passed some time today, I told him that I was in the hands of the Senate in that regard; that I would need leave to proceed with them in that time period. I told him that it was up to the Senate to decide, and reminded him that only one member of the Senate need withhold consent for such leave to be denied. I said that this is a decision for the Senate to make independently of what took place in the other house.

We know there are delays. If someone could invent a device to control the verbal flow in the other place, we would probably not be faced with this problem.

Senator Bourget: That is true on both sides.

Senator Langlois: In saying that, I am not criticizing what has taken place in the other place. We live in a democratic society with parliamentary government, and any member of Parliament is free to speak his mind as often and for as long as he wishes. I would be the last to tell anyone in this house, or in the other place, that he or she has spoken too often or too long.

[Senator Langlois.]

I feel each of us should consider his own responsibility in this respect. If any member of the Senate feels that these cheques should be delayed for another week, so be it; but he or she will have to assume that responsibility. My duty is to request leave to proceed with third reading of this bill today, but I would not challenge anyone's right to deny that leave, thereby postponing passage of this bill for as long as he wishes, knowing the consequences that will flow for those who do not receive their cheques on time.

Senator Flynn: That's it—put the blame on us.

Senator Langlois: I do not think I can be any more sincere than I am now in explaining the situation as I see it. In so doing, I am simply performing my duty as a member of the Senate.

Senator Grosart, during the course of his remarks last evening, drew the attention of the Senate to the number of $1 items contained in supplementary estimates (B). Notwithstanding the fact that his remarks in this connection were made in the course of the debate on the motion for the adoption of the report of the Standing Senate Committee on National Finance with respect to supplementary estimates (B), on which this bill is based, I think I can properly deal briefly with those remarks during the course of the present debate.

● (1440)

He mentioned that the number of $1 items connected with supplementary estimates (B), the basis of the present bill, is larger than ever before, and he was right on that score. However, when the number of $1 items in the supplementary estimates is compared to the total amount of money transferred by these $1 items, the difference is not that great.

To illustrate this, I have obtained a table covering the last three years and giving the number of $1 votes in supplementary estimates (A) and (B) in order to give the house a complete picture. The table shows vote transfers, grants, deletion of debts and other vote items, and gives the total of each for each year. I shall read this into the record, but I would ask leave of the Senate to have this table printed in the minutes of today, because I believe these figures will be easier to understand in print.

The Hon. the Speaker: Honourable senators, is that agreed?

Hon. Senators: Agreed.

Senator Flynn: Do you not want it printed as part of your speech? You are not speaking of the *Minutes of the Proceedings*, I assume, but of having it printed as part of your speech.

Senator Langlois: Yes.

Senator Lamontagne: Are you going back to 1957?

Senator Langlois: No, 1973-74, 1974-75, 1975-76.

(*The table follows:*)

NUMBER OF $1 VOTES IN SUPPLEMENTARY ESTIMATES

	Vote Transfers	Grants	Deletion of Debts	All Other	Total
1973-74					
Supps A	4	6	3	10	23
Supps B	15	8	3	7	33
	19	14	6	17	56
1974-75					
Supps A	—	—	—	—	—
Supps B	13	6	1	5	25
Supps C	—	—	—	—	—
Supps D	25	9	5	8	47
	38	15	6	13	72
1975-76					
Supps A	15	6	—	9	30
Supps B	27	9	4	5	45
	42	15	4	14	75

Senator Langlois: I have another table, which I would also ask leave to have printed as part of my speech. It is headed "Dollar Value of $1 Vote Transfers and $1 Grant Approvals." I draw honourable senators' attention to the title.

The Hon. the Speaker: Honourable senators, is that agreed?

Hon. Senators: Agreed.

(*The table follows:*)

DOLLAR VALUE OF $1 VOTE TRANSFERS AND $1 GRANT APPROVALS

	Vote Transfers	Grants	Total
1973-74			
Supps A	19,218,629	1,063,550	20,282,179
Supps B	61,051,178	601,064	61,652,242
	80,269,807	1,664,614	81,934,421
1974-75			
Supps A	—	—	—
Supps B	15,031,229	1,474,718	16,505,947
Supps C	—	—	—
Supps D	31,306,352	4,790,500	36,096,852
	46,337,581	6,265,218	52,602,799
1975-76			
Supps A	55,863,180	9,126,011	64,989,191
Supps B	62,468,971	1,127,067	63,596,038
	118,332,151	10,253,078	128,585,229

Senator Langlois: It will be noted that in the present fiscal year which ends tomorrow the total of vote transfers in supplementary estimates (A) and (B) is $118,332,151.

Senator Flynn: How generous I was. I said only $92 million.

Senator Langlois: That is why I am putting these figures on the record. I want to give the complete picture. We have nothing at all to hide in this respect.

I have another interesting table, which is the last one I would ask leave to have printed as part of my speech. It is headed "Department of Public Works, Vote 15—Capital Expenditures."

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

Hon. Senators: Agreed.

(*The table follows:*)

D.P.W. VOTE 15—CAPITAL EXPENDITURES

Total Voted in 1975-76—$306.0 Million

Transfer in Supplementary Estimates (B)—$6.899 Million

Funds were available for transfer from this vote in 1975-76 for the following reasons:

1) Normal delays in construction.

2) The government's announced expenditure reduction in June, 1975 of $13 million for DPW resulted in the department delaying some projects until it could recast its budget. (Note—this $13 million is being allowed to lapse.)

3) In December the government announced a $30 million cutback from the planned expenditure level for 1976-77. This caused the department to delay some projects scheduled for 1975-76 so that the carryforward work to 1976-77 would not result in over expenditures in that year.

Senator Langlois: While listening to Senator Grosart last night I got the impression that the government had been purposely delaying programs in order to finance extra expenditures which had not been forecast earlier in the year when the main estimates were tabled. However, when the amount of the transfers in supplementary estimates (B) is compared to the total capital expenditures of the Department of Public Works alone, it is found that the amount is very small indeed.

● (1450)

Funds were available for transfer from this vote in 1975-76 for the following reasons: First, normal delays in construction resulting from strikes, from scarcities of materials and from other circumstances beyond the control of the department. There were normal delays in the construction program, and anyone engaged today in the construction business ought to know that it is not easy to proceed on schedule with any contract. There are all kinds of delays, as I have said, because of shortages of materials and because of strikes and other circumstances beyond anyone's control. That is the main reason for the deferment of these capital expenditures.

Second, the government's announced reduction in expenditures in June 1975 of $13 million for the Department of Public Works resulted in the department's delaying some projects until it could recast its budget. This amount of $13 million is being allowed to lapse.

All honourable senators remember, I am sure, what was said at the time by the leaders of the other parties in the other place. I am not accusing anyone in particular, but the expression "too little, too late" was used. That is the usual refrain. The cut of $13 million was too little and too late, but today the result is that $13 million worth of capital expenditures have been allowed to lapse.

I was amazed last night when I heard Senator Grosart say, "Well if they were not able to spend that money this year, why did they not put it in the bank?" This cannot be done. Even someone who has just arrived here knows that when an item is not spent in the course of a fiscal year, it reverts to the Treasury and has to be voted again in the following year.

Is this then the solution my honourable friend would pose—that the government should let this amount lapse, and vote additional money to cover these unforeseen expenditures in order to make these necessary readjustments in other items which have come about as a result of unforeseen increases, such as inflation and other circumstances? My honourable friend knows, contrary to the position he took last night, that this money could not be put into the bank and kept in store for next year. The only other solution for the government was to let these amounts lapse, vote additional funds and have an inflated budget, which would have been criticized by everyone in this place and the other place.

Senator Grosart: Will the honourable senator agree that when I said "put it in the bank," I probably should have said, "keep it in the bank," because that is where it was? If it was not taken out, it would be in the bank.

Senator Langlois: It would have lapsed.

Senator Grosart: It would be in the bank.

Senator Langlois: The only solution, as I said, would have been to let these items lapse, vote additional funds, and have an inflated budget. That is the only solution which can be inferred from what my honourable friend said last night.

There is also a third reason for these deferments. In December the government announced a $30 million cutback from the planned expenditure level for 1976-77. This caused the department to delay some projects it had scheduled for 1975-76 so that the work carried forward to 1976-77 would not result in over-expenditures in that year. That is the last reason, and it was not, as suggested last night, a wilful act on the part of the government looking for additional funds and thus asking a department to delay such projects, as the painting of a bridge.

As a matter of fact, I have tried to locate that bridge. In the limited time at my disposal I was not able to obtain any definite information, but there is an indication, for what it is worth, that the bridge in question is the Jacques Cartier bridge in Montreal, which I believe is a bridge the government has been trying, without success, to pass over to the province for a number of years. At any rate, the painting has been delayed. I am not sure what the reason for the delay was in this case. I am not sure if it was because of a strike or not, but labour conditions in Quebec were certainly bad last year.

I see my honourable friend, Senator Beaubien, smiling. I know that his fellow constituents from Montreal see little to smile at in respect of the Olympic site, which is behind schedule owing, for the most part, to labour conditions.

There is no doubt that we went through a difficult time last year in terms of labour disputes. Perhaps that is the proper place to put the blame, instead of trying to accuse the government of wilfully delaying projects in order to revise its financial forecasts made earlier in the year.

Senator Grosart: I hesitate to interrupt the honourable senator, but he has said at least three or four times that I suggested these delays were deliberate. He has now become a little more rhetorical and has said "wilfully delaying." Would he not agree that there was not one word in my whole speech last night that would suggest for one minute there was any wilful intention to delay any one of these projects? Would he not agree that, on the contrary, the tone of my remarks was that it was perfectly understandable that there would be delays? Would he not reconsider the statement that he has made over and over again, that a point I was making was that there were deliberate attempts on the part of departments, or even of government officials, to delay these things for purposes that were not proper?

Senator Langlois: Honourable senators, I thought it was up to me to close the debate. I see my honourable friend apparently thinks it is his job to do so.

Senator Grosart: I have just asked questions, which is my right.

Senator Langlois: It is more than a question you have asked. You have made a comment on my speech. You are about to rebut what I have said. But with respect to his remarks last night—and I think I should address myself to the Senate now—the impression given by the honourable senator was that he was laying the blame on the government for delaying projects at the risk of paying more next year for realizing the same projects. That is a clear inference from his speech last night.

Senator Grosart: I never said "deliberate."

Senator Langlois: And I read it again this morning.

Senator Grosart: I must interrupt the honourable senator. Will he please agree that I never said "deliberate", and I never used the word "wilful"? I never made any such suggestion, because it is quite contrary to the whole tenor of my remarks. And I shall have further questions on that in a moment.

The honourable senator just now objected to my asking some questions, and *Hansard* will show that I did ask questions. But I will say this to him now, that in closing the debate it is quite possible he is introducing completely new material. It becomes quite difficult for anyone on this side to deal with new material that is introduced now and which, I have to tell him, is not entirely relevant to the present debate. I realize his difficulties. He is entitled to reply to me and to use figures in so doing, but I would ask him this question: Does he not feel that it puts us in a difficult position when he introduces this much new material? However, we will have third reading, and perhaps there will be an opportunity to reply then.

Senator Langlois: Very good. I am not going to press this point any further. But if the honourable senator is right in saying that he did not say what I have said he said, or what I understood him to say, how could he then make the accusation he made? And he did make a definite charge

against the government, saying that it delayed projects, thereby creating a risk of paying more next year for the same projects.

Senator Grosart: Of course.

Senator Langlois: If there was no wilful action, if there was no deliberate action, taken on the part of the government in this respect, how can the honourable senator then say that the government must bear the blame if next year the same projects are realized at a greater cost? I ask him to put some logic in what he said last night.

Senator Grosart: The honourable senator has asked me a question. Perhaps he will allow me to reply. He asks how I could say that the delay would cost the taxpayers more, and yet not be imputing a wilful motive. If he wishes me to indicate the motive I would have had if I had intended to make any criticism of the delay as such, I would refer him to the Auditor General's statement that it is total inefficiency and lack of control by government that is the cause of, let me say, some of the delays, but not all of them.

● (1500)

Senator Langlois: I do not think I should spend any more time on this. Honourable senators can read the speech, as I did this morning, and I am sure that they will come to no other conclusion than the one I did in this respect.

If I may offer some advice to the honourable senator, which, of course, he does not have to accept, it is that the next time he wishes to criticize the government he should make this proviso, that he is not imputing motives in whatever he says in such criticism. I will not ask him to do that, but if he is going to take the attitude he has taken this afternoon I would advise him to do so before he utters similar remarks.

Senator Grosart: My speeches are long enough without that.

Senator Langlois: I do not want to delay proceedings by pressing any further this matter and the other matters that have been raised by the honourable senator and his leader. I grant them the right to criticize the government as much as they like. This is proper. This is their function.

Senator Bourget: It is part of the game.

Senator Langlois: It is part of the game, yes.

I close my remarks by urging honourable senators to give their earnest consideration to these estimates, and, if at all possible, though without relinquishing in any way their right to criticize or even delay the measure before them, to bear in mind the difficult circumstances in which we in this chamber quite blamelessly find ourselves. We have this bill before us as we received it from the other place last weekend. We are now under pressure of time with regard to it, and have our backs to the wall, so to speak. I do not think any honourable senator would like to see anyone suffer from delay in our parliamentary proceedings, and I am sure all will do everything in their power to expedite the passage of this measure.

[*Translation*]

Senator Asselin: Would Senator Langlois allow me a question? I had not forgotten him. As you will see, it is a very simple question. Would not the senator recognize the fact that this same thing happens every year: the appropriation bills are brought in at the very last minute? Last year, the government deputy leader had promised to make representations to the government in order to improve this situation. Yet today, the same government representatives are again asking us to expedite consideration of this bill so that cheques may be issued in time and that the Senate not be held responsible for withholding passage of this bill. Shall we, from now on, have the opportunity of considering these bills in detail? Will government representatives in the Senate make the necessary representations? That is what we want to know.

Senator Langlois: I would draw my honourable friend's attention to the fact that, as government representatives, my leader and I made representations last year. No later than Friday I again approached the leader in the other place, Mr. Sharp, and told him that we always face the same situation from one session to another. He explained that the days reserved to the consideration of the estimates in the House of Commons are chosen by the various party leaders and decided upon by consensus. If they underestimate the delays that may occur in the other place, well, someone has to suffer the consequences of this situation. Unhappily, as I say, we are always the ones who must bear the burden. We are always in the same awkward position in which we are supposed to pass these bills under some pressure. As I said earlier, my duty and that of my leader on this side of the house is not so much to support the government as to put forward the legislation. Yet, it is our only duty. Should I have other obligations, I would not act very long as deputy leader. I believe that my duty here, as long as I agree to assume this responsibility, is to see to it that legislation is passed by this house, that it receives due consideration and that all circumstances, all consequences of any delay, are presented to my colleagues, who will assume their responsibilities just as I must assume mine. If through my insistance I cause a provision to be passed too quickly for the house to give it the necessary consideration, I am committing a fault and I take full responsibility for it.

On the other hand, if the Opposition—I am not saying that this has been caused by an overly insistent Opposition—delays a bill so that people who are not part of the parliamentary system suffer, it does so on its own responsibility. Each of us in this house must accept his own responsibilities.

But, as I said earlier, I have taken the responsibility of suggesting to the leader of the other house and the President of the Treasury Board, whose officials were in my office this morning, that they should try to put pressure upon their ministers and insist that they try in the other house to ensure that the days allotted for the estimates be brought forward and not to wait until the very end of a session to give them to this house, because even though we have very limited powers concerning money bills, we must still—

Senator Flynn: No, no.

Senator Langlois: We must, however, admit that our powers are limited. We have to admit it. We must still pass these bills, we must give them all the attention required, and even in view of this position that I take concerning our limitations—and I think that I am not the only one to do so—we still have the duty—

Senator Flynn: Who else besides yourself?

Senator Langlois: We still have the duty to consider the bills in their smallest details. This is our duty, and if someone in this house is opposed to the idea that we must do this in a short time, he must assume his responsibilities and do what he considers his duty. I for one will not be suffering tomorrow morning either. I can do without the cheques I have in my pocket, if the bill does not pass. Others, however, will have a real need for it tomorrow morning.

Senator Denis: Hear, hear!

Senator Asselin: I suggest the government deputy leader, the government or the government representatives always confront us with a difficult choice. "My responsibility", says the deputy leader, Senator Langlois, "is to introduce bills, they must go through". That is his responsibility. He fulfills it perfectly, and I commend him for it.

It is up to us in the Opposition to assume our responsibilities. But if we do assume our responsibilities, if we scrutinize the bill in greater detail, or try to send it to committee, we are accused of slowing down the process. Such is the awkward situation we are placed in.

Senator Langlois: We all agree we are in an awkward situation.

[*English*]

Motion agreed to and bill read second time.

THIRD READING

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

Senator Langlois: With leave and notwithstanding rule 45(1)(*b*), I move third reading now.

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

Hon. Senators: Agreed.

Hon. Allister Grosart: Honourable senators, I regret that I feel obliged to make a few comments at this point. What I have to say is not in any way critical; it is intended, rather, to clear the record. Since Senator Langlois made his comments on his suggestion that I had criticized these delays or deferments on the grounds of wilfulness or deliberateness, I have quickly looked through *Hansard*, and am quite unable to find any such criticism.

● (1510)

The whole tenor of my remarks was to support the position taken by the committee itself. My criticism was of the transfer of expenditures in an annual budget intended for capital works to cover up operating budget deficiencies. This is what the committee said:

> The Committee objects to the deferment of capital projects in this manner because most of them will eventually be proceeded with and will then require a substantially increased total expenditure due to the continued rise in construction costs.

Senator Langlois objected to my pointing out that these delays do eventually mean greater costs to the taxpayer, but I am merely saying to him now that that was the finding of the committee, and I was not chairman of that committee. I want to emphasize that the whole basis of this criticism is an echo of the statement made in the report of the Auditor General that:

> —the present state of the financial management and control systems of the departments and agencies of the Government of Canada is significantly below acceptable standards of quality and effectiveness.

And I am glad to say that in this debate this is the fourth time this has been read into the record. Honourable senators will recall that it was read by myself last night, and by Senator Flynn earlier today. I compliment Senator Langlois on having read it into the record again, as I now do for the fourth time. I point out that this is the basis of the criticism that the Opposition is mounting here—the declared statement of the special committee set up by the Auditor General, and his comment that that study revealed that the present state of the financial management and control—and this statement was released in December—is significantly below—not just "below" but "significantly below"—acceptable standards of quality and effectiveness. I am quite sure that if any honourable senator here has responsibility in respect of a business, large or small, and if the auditor of that business made that statement and attached it as a note to the financial report, some heads would roll, as they have rolled recently in some of our corporations for much the same reasons.

I say that to make it as clear as I can that the criticisms we have voiced on this occasion are, in our view at least, responsible criticisms, and they are backed up by the committee itself and by the Auditor General of Canada.

The Leader of the Government introduced some new figures, and I shall not comment on them because I do not have them before me, but I shall say that as far as I am concerned they had little or no relevance to any figures or comments I made, for the reason that not once in all the comments and figures he gave us was there the slightest reference to the essential problem, which is not the number of $1 items, or the number of items covering grants and contributions, and it is not the number of items that deal with debts; the essential thing is the transfer from capital funds to operating expenses, and that is the whole emphasis of the committee's report and, I believe, of my comments last night.

For example, he referred to a specific instance, Public Works vote 15, and he pointed out, quite correctly, that the sum of $6.8 million which was not spent was not a very significant percentage of the total spending of Public Works. Of course it wasn't, but what I point out to him is that it was almost certainly a very substantial part of that particular vote, and the objection that we have been making here is not to a transfer within votes, which is quite proper, but to transfers from vote to vote of capital funds for operating expenses. If you look at this particular item, it says:

> —due to unforeseen delays in construction projects.

I read that last night—"unforeseen". There is no suggestion there that they were deliberate. They were unforeseen, and the money is used for operating expenses.

It is interesting to look at another one. I mentioned it last night, but I did not make the comment I am going to make now. This, I believe, completely supports the position

taken by the Leader of the Opposition in his objection to our being asked to approve retroactively expenditures already made. This certainly is the situation, and let me use vote 20 of National Health and Welfare as an example. It says:

> Revisions to two capital projects originally scheduled for construction in 1975-76 have forced deferment and have made funds available for this transfer.

But it has not made them available, honourable senators; the words should have been "*will* make them available when this bill passes." And what are they to be used for? They are used "to meet increased operating expenses of the program for the balance of the current fiscal year."

Now, if this $700,000 is not paid retroactively, and if this bill is not given royal assent until tomorrow night—and I hope that will be the situation although I am not saying it will be—it means that as between 6 o'clock tomorrow night and midnight, if these funds are not already spent, they have been voted to be spent sometime after this item is approved—that is, $700,000 to be spent for the balance of the current year. That is exactly what the estimate says. Yet there seems to be some question as to whether the Leader of the Opposition was correct or not when he said that these funds have been spent. Of course, they have been spent. There is no question whatever that practically all of the moneys we are now being asked to authorize have already been spent, and I agree fully with the suggestion that this is an indication of complete disrespect for Parliament on the part of the Executive. I am not suggesting for one moment that this has just happened this year or last year, or even in the last decade. This has been going on for years and years, and may in fact have gone on under a government which I supported, but that does not mean it is right. I am not suggesting that for one minute.

I suggest to you, honourable senators, that the real difficulty here is in the assumption on the part of departments—of ministers perhaps, but certainly of officials—that once money is granted to a department *in toto*,—and let us say that they have $100 million—that they are entitled to spend that entire $100 million even if some of the items for which it was voted have to be deferred. I say that because in every one of these items the statement is that funds *are* available—funds are free. The fact of the matter is that those funds are not available. They were voted by Parliament for a specific purpose, and until Parliament says they can be spent on something else, then they are not available—unless I am unable to read English. Surely that is the situation, and that is what we are objecting to.

I am not criticizing any government or department for delaying capital expenditures. We know it has to happen. Senator Langlois was quite correct in saying that in the construction business strikes and delays are inevitable. I have not criticized that, I am quite sure. If I did, and if it appears in the Senate *Hansard* of last evening that I even whispered that, then I say immediately that it was not my intention to do so, and I do not believe I did.

● (1520)

I understand perfectly well the point made by Senator Langlois when he was speaking in the French language. I caught sufficient of it to realize the import of his remarks. He made the point that it is his duty in this chamber to have these appropriation bills passed which, of course, is true. From this side Senator Asselin said it is our duty to criticize and do what we can to improve them. I would hope that as a result of this debate—in fact, I am reasonably sure—these particular items will come to us in another form next year. That is my guess, based on the experience we have had in the Standing Senate Committee on National Finance with the officials, who have indicated that they appreciate the pointing out of these matters. I shall be very surprised if we find in the next estimates to arrive here the phrase "funds *are* available."

Senator Langlois: In all human endeavour there is always room for improvement.

Senator Grosart: Yes, and, as Senator Langlois expressed it, there is also probably room for improvement in my speaking ability, because I appear to have given him last night an impression which it was not my intention to give.

Senator Langlois: You have improved a great deal since last night.

Senator Flynn: Perhaps it is your understanding that has improved.

Senator Grosart: If I continue to improve, by the time I retire from here someone might even say, "He was fairly good by the time he got through, after taking his lessons from Senator Perrault, Senator Langlois and others."

I have only one further comment to offer, because I do not wish to delay the debate. I am fully sympathetic with the point made by Senator Langlois that it would be a hardship for persons in the Public Service not to be able to cash their cheques. In this particular case, as I understand it, the cheques are dated March 31 and sent out earlier. Some public servants decided to cash them yesterday or today, notwithstanding the fact that they are dated March 31. They were doing exactly what the officials, departments and ministers are doing in this respect. The ministers go a little further and say, "We have not had the money approved, but we will spend it." The public servants are not going that far, but decide that as they are entitled to the money in a couple of days they will spend it now. However, in that circumstance they are behaving in a much better manner than is the government itself, which spends the money before the expenditure has been approved.

There was reference to my statement that they should put it in the bank. I agree that I was using a fairly general term. Of course, what I meant was that if it were not spent, it would go into the bank in effect, and remain there. As I said earlier, if it is not withdrawn and spent, it remains in the bank. If at the end of the year there is a bookkeeping item declaring that the item has lapsed, the money is still in the bank and has not been spent. It is my suggestion—one which came up during the meeting of the committee, and was very strongly urged by some of the members—that we ask that there be an end to this transfer of moneys intended for capital expenditure but being used actually to pretend that there are savings, because it is a pretence. It may be a convenient method of doing it, but I submit it is a dubious device to do this and suggest that we have saved the money, that being the suggestion that is made.

In the two supplementaries we have exceeded the main estimates by $2.6 billion. The fact of the matter is that the

spending has exceeded the main estimates by more than $2.6 billion, because money has been spent which was not intended for these items, and it will still be spent. It is more than a bookkeeping objection; it is an objection to what I have no hesitation in referring to as a very dubious device in the presentation of estimates or appropriation bills to Parliament.

Hon. Léopold Langlois: Honourable senators, I have only one or two brief comments to make in reply to the remarks of Senator Grosart. Before dealing with these, however, I would like to attempt to correct an impression I might have given in my opening remarks when I referred to the exchange between the Leader of the Government and the Leader of the Opposition with regard to the delay in the payroll for the coming month. This might have given honourable senators the impression that I was relating this payroll problem to supplementary estimates (B), but it must be related to the Interim Supply Bill, Bill C-91, which will be considered later this afternoon. I wish to make this correction in case I have created the wrong impression in dealing with the exchange between the two leaders before opening my remarks on Bill C-90.

Returning to Bill C-90 and the remarks Senator Gorsart made earlier this afternoon, when he with great vigour denied my statement that he had charged the government with wilfully delaying projects in order to find funds to correct any misestimation of government expenditures early in the year, I refer him to page 1968 of *Hansard*. I will leave honourable senators to interpret these remarks.

> Of course, every one of those capital projects will be proceeded with next year, when the cost will be greater. So, far from being a saving, we are faced with the government pretending to save money and actually costing the taxpayer more.

Senator Grosart: Yes, that is exactly what I just said.

Senator Langlois: If this is not an inference that this was wilfully done, I do not know what "pretending" means.

Senator Grosart: Pretending to save money.

Senator Langlois: You do not pretend by accident.

Senator Grosart: Oh dear; oh dear!

Senator Langlois: Those are my only comments. The speech is there and I leave it at that.

Senator Grosart: Yes, you should leave it at that; you are wise.

Motion agreed to and bill read third time and passed.

● (1530)

APPROPRIATION BILL NO. 2, 1976

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Langlois for second reading of Bill C-91, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

Hon. Orville H. Phillips: Honourable senators, approximately eight weeks ago we received the so-called blue book, the copy of the estimates for 1976-77. During those past eight weeks, things have been fairly quiet, in fact almost dormant, regarding the estimates; that is, until last evening, when the Leader of the Government in the Senate—and, from his speech today, I had better include also the deputy leader—came into the chamber and in a rather agitated manner requested us to pass not only supplementary estimates but interim supply by this evening.

Since that time I have let my mind wander to more pleasant things, thinking about the spring thaw. I thought about the snow lifting in the bush, and about the partridge that will be sitting on a log sunning itself. I began to think of the unusual pattern of activity which the partridge develops in the springtime, when it sits on a log and begins a rhythmic drum beat. It reminded me of the two honourable gentlemen opposite, who have created a lot of noise but with very little effect. We have all heard those excuses and explanations before, and they were no more effective today than they were in the past.

During the debate on the anti-inflation legislation, many speakers in both houses urged the government to restrict spending as a means of combating inflation. We received assurances that the government would use restraint in preparing the estimates for 1976-77. When the estimates arrived, naturally the first thing we did was to make a comparison with last year's estimates to determine how effective was the restraint.

I really do not think it was any surprise to find that the main estimates for the next fiscal year, when compared with the main estimates for 1975-76, show a 20 per cent increase. The question we might ask ourselves is: What would the increase have been had it not been for the restraints?

In the same debate, the same speakers requested the provinces to follow the example of the federal government and practise restraint in preparing their budgets for the upcoming year. Let us see how a few of the provinces have fared. Alberta, which we normally consider to be wealthy by Canadian standards, is making a determined effort to restrain its expenditures within a 9 per cent increase. Quebec, where we have not seen a great deal of restraint lately, last week kept its budget to a 9.7 per cent increase, and indeed five of their departments showed a decrease.

Honourable senators, if restraint in government expenditure will affect the anti-inflation program, we must give credit to the provinces rather than to the federal government, and we should urge the federal government to consider the budgets of the provinces and to try to follow them more closely.

Upon receipt of the estimates, a favourite pastime in Parliament is to try to "guesstimate" the amount that is not included in the estimates. If we ask ourselves what expenditures in government planning have not been included in the estimates, two items appear very prominently. The first is the huge expenditure by the Department of National Defence for the purchase of the Lockheed long-range patrol aircraft. That aircraft was originally offered to the Canadian government at $25 million per aircraft for a total of 18 aircraft. The aircraft came equipped with American radar, which is used throughout NATO. For some reason the Canadian government decided to install Canadian radar in the aircraft. When that decision was taken, the cost of the aircraft escalated from $25

million each to approximately $50 million each. Admittedly, the proposal included certain so-called cost-sharing arrangements on defence spending.

Honourable senators, can we afford to make those cost-sharing arrangements? Can we afford a subsidy of $500 million to enable Canadair and de Havilland to continue operating as they have in the past? It is a very large sum of money, and it is something to which the Senate should give special consideration.

In addition to the costs I have mentioned, certain other items have now become necessary. One is an amount needed for interim financing, estimated to be $300 million.

As a radio commentator said this morning, not only do we have to pay for the aircraft but we have to purchase the parts in advance. When we hear of an arrangement like this, one wonders how Lockheed Aircraft Company came so close to bankruptcy, if all its clients were as cooperative as the Canadian government has been. Lockheed dismisses as mere misunderstanding the interpretation of a telephone conversation by the Department of National Defence in one way, and the company's interpretation of it in another. Honourable senators, $300 million is a lot of misunderstanding. It is also a lot of confusion and an awful lot of interim financing on a $1 billion deal.

The Lockheed Aircraft Company has every confidence that the Canadian government will proceed. Canadians have already invested $15 million to $18 million in engineering and restructuring studies for the new aircraft.

The *Orion* is not a new aircraft. It has been on the drawing boards for at least 15 years. I was rather curious to learn how we managed to spend $1 million in the redesigning and engineering costs of an aircraft which has been in existence for that long. Perhaps the terminology used is not exactly accurate, and the $15 million to $18 million may have gone to consultant fees.

The British, in the NATO operation, use an excellent anti-submarine aircraft called the *Nimrod*. I know that the airmen who serve in the Maritime Command think highly of this aircraft. They have placed a number of that aircraft in storage as a result of their restraint program. I would like to suggest to the government that we consider renting or leasing the *Nimrod* aircraft and eliminate the $1 billion expenditure during our restraint program.

The second item that appears prominently in the "guesstimation" of the estimates is the Olympic Games deficit. I know it is everyone's favourite hobby to guess what the deficit will actually be. In fact, it has even intrigued the Prime Minister and Mr. Bourassa to the extent that they had a very friendly meeting in Quebec City, one in which the Prime Minister gave a rather indefinite "no" to Mr. Bourassa. Since that time, a number of emissaries have gone between Ottawa and Quebec City to discuss the Olympic Games deficit. The tenor of those discussions seems to be to find a way for the federal government to contribute to the deficit without including it in the estimates. I do not think the Canadian people expect the Province of Quebec to pick up all of the deficit. They do expect the federal government to be frank and open in specifying the amount being paid and by whom.

● (1540)

The President of the Treasury Board referred to the rather large amount being paid for oil subsidies east of the Ottawa Valley line to offset the cost of imported oil. I think it is quite natural that he should have mentioned this. The rather surprising thing is that no one in the other house reminded him that the amount of the subsidy has been decreased by $275 million, a decrease which is occurring just before an anticipated increase in the price of oil in Canada on or about July 1 of this year. I find it rather odd that with the anticipated increase in the price of oil, we are able to decrease the subsidy payments by $275 million annually.

As a result of the increased cost of imported oil, the cost of electricity in the Maritime provinces has risen greatly. Until recently, it was possible to heat a home in Nova Scotia by electricity for approximately $275 to $300 per year. During the course of the current heating season, residents of Nova Scotia have been receiving bills in the amount of $400 for a period of two months.

A federal-provincial meeting of finance ministers is scheduled for Ottawa later this week, and Premier Regan of Nova Scotia has requested that consideration be given at that meeting to the situation in Nova Scotia. He tells us he is very optimistic that the federal government will give consideration to this problem. The honourable gentleman should dampen his optimism. I think the matter has already been decided, due to the fact that the amount of oil subsidy has been decreased by $275 million.

Last evening, Senator Langlois, in a rather lucid explanation of one item in supplementary estimates(B), stated that vote 55, Industry, Trade and Commerce, $186 million for the Two-Price Wheat System, has been reduced from $186 million to $111 million, a reduction of $75 million. The question then arises: Does the government expect that Canadians will be eating less bread, or has the price of wheat in the export market increased, or will the price of bread continue to rise?

The government in the past has complained of the fact that the Opposition has requested various cutbacks and restraints in expenditures, and that as soon as the government eliminates a program the Opposition criticizes it. Perhaps it is understandable that the government should get the feeling that it is damned if it does and damned if it doesn't. I point out that the Province of Ontario meets the same criticism.

I should like to refer briefly to one or two of the reductions. Before doing so, I point out that reductions as well as increases in expenditures attract the attention of the Opposition, because as members of the Opposition we feel we have an obligation to ensure that reductions do not create hardships in one area of Canada as opposed to others.

In the anouncement made by the President of the Treasury Board last fall, certain reductions were announced for the Department of Transport. These occurred as a result of abandonment of rail lines in Western Canada and a reduction in payments made under the Maritime Freight Rates Act and ferry subsidies on the Atlantic Coast.

Honourable senators, there are two major factors keeping this country united, one being transportation and the

other being an understanding of the language and culture of the other founding race, or bilingualism. Those who are affected by the abandonment of rail lines and reductions in payments made under the Maritime Freight Rates Act look at the expenditures for bilingualism programs and point out that such expenditures are not reduced, leaving them wondering why transportation should be singled out for reductions.

I do not wish to appear to be deadly opposed to the bilingualism program. I am not. I note, however, that Mr. Spicer does not think the program is as effective as it should be, and one can find very little to quarrel with in that statement. I would point out that transportation is far more important in the Maritimes and Western Canada than is bilingualism. I would hate to see further reductions in transportation subsidies.

Vote 275L under Transport states that no loans are required by the CNR for the purchase of capital equipment during the coming fiscal year. Recently, there was speculation that the CNR, during the coming year, might improve its rail service, particularly its passenger service, by purchasing the Light, Rapid and Comfortable train, which is being designed in Montreal. Does the fact that no loans are required by the CNR, as stated in the estimates, eliminate the possibility of the CNR's improving its passenger service during the coming year?

Vote 20, Urban Affairs, is probably the largest item in the estimates, being $500 million for housing grants. This item shows a reduction of approximately $20 million, which would indicate that the government is not taking the housing program as seriously as it did this time last year. Housing is urgently required by many Canadians. It would be a shame to see the government completely eliminate the grant program for first-time home buyers.

● (1550)

Bill C-91 contains authority for the government to borrow $6 billion. This indicates that the government has not been listening to the debates in the Senate, especially the arguments advanced by Senator Flynn in last year's debate. In introducing Bill C-91 last evening, Senator Langlois referred us to the debates of the other place and stated that they are rather interesting on this point of borrowing authority. I re-read those debates and I failed to find what the honourable senator found interesting. As usual, there was evasion; the government was refusing to give answers to questions and avoiding giving the opposition information. I found very little excuse or purpose for the borrowing authority outlined in the debates of the other place.

In closing, honourable senators, I should like to urge that the Senate refer these items to a committee, where we can get further information and explanation of a number of additional points raised in my remarks. I think we could have a committee meeting this evening or tomorrow morning and dispose of the supplementary estimates by tomorrow evening. The computers are already in the process of having the cheques printed; this can continue while we are in committee. As Senator Perrault has already pointed out, the cheques cannot be cashed until Thursday; they can be mailed tomorrow, and I do not think anyone will suffer unduly from a few hours' delay.

[Senator Phillips.]

Hon. A. Hamilton McDonald: Honourable senators, I rise to question some of Senator Phillips' conclusions with respect to the possible purchase by Canada of Lockheed long-range patrol aircraft. I understood from Senator Phillips' remarks this afternoon that he is advocating the purchase of the standard P-3C patrol aircraft at a cost of about $25 million apiece. If you add to that a further $10 million for the electronic equipment that would be necessary, it would bring the purchase price to about $35 million apiece. However, it would take 26 of this type of aircraft to do the same work as 18 of the type the Canadian government and the Canadian Armed Forces are desirous of purchasing. That would mean, not a saving but an increase in the expenditure, in that we could purchase 18 aircraft at $50 million apiece for a total of some $900 million, whereas 26 aircraft at $35 million apiece would total $910 million.

The decision has been made to buy aircraft with more advanced equipment, and to purchase fewer of them. If we were to follow the proposal of Senator Phillips, I suggest that we would have to have 26 aircraft rather than 18 in order to do the same job, and it would cost a few more dollars. I therefore do not see the wisdom in purchasing more aircraft, which would need more crew and more fuel, and would in the long-run be more expensive than purchasing the aircraft the government and armed forces are desirous of purchasing.

Senator Bourget: Would the Honourable Senator Phillips permit a question? During the course of his remarks he said that some people from Ottawa have been going down to Quebec City to discuss the deficit of the Olympic Games. I wonder where my honourable friend got this information. I suppose when he mentioned some people from Ottawa he meant people connected with the government. I would like him to tell us who those people are and where he got this information.

Senator Phillips: Honourable senators, I do not believe I said they were elected to the government. As the honourable senator well knows, those in the Prime Minister's Office have exercised far more influence than the elected people; all we have to do is make an inquiry at that office and find out who went down.

Senator Bourget: That is not an answer. You are just guessing again.

Senator Phillips: I have been studying the Honourable Senator Langlois.

Hon. Jacques Flynn: Honourable senators, on Bill C-91, which is a request for interim supply to cover approximately the first three months of the fiscal year beginning on Thursday, I would point out to the Senate, and would especially draw to the attention of Senator Langlois, the fact that only one day was accorded in the other place for the examination of this bill. It is, therefore, not because of a prolonged debate in the other place that the bill reaches us at the last minute. I want, thereby, to point out to the Leader of the Government and to his deputy that the fault for the late arrival of this interim supply bill is due to the way the Leader of the Government in the other place manages the affairs of that house. If they could find one day last week, Thursday I think it was, they could have found a day a week before. This is what the Leader of the Government should try to impress on his counterpart in

the other place, that this could have been done a week before.

The way the other place proceeds, by touching upon a bill one day, forgetting it the next day and touching upon something else, is certainly no obstacle to dealing with supply, interim supply especially, in time for us to be able to consider these bills adequately. The Leader of the Government may already have done this, but I suggest that if he has done so he should try again.

The way in which we are asked to deal with these bills is, to my mind, a futile exercise, especially as in the present instance no advance study has been made of the main estimates. They have been referred to the Standing Senate Committee on National Finance, but the committee has not started its study of them and has not reported on them, so we are completely in the dark. Even if we have the assurance that the committee will thoroughly examine the estimates, we will in the meantime have voted over one-quarter of the main estimates without having had the benefit of any study by the committee, or a worthwhile study in the Senate.

The deputy leader has suggested that we can always bring any matter before the Senate by way of a notice of inquiry. We have always had that privilege, but when it is exercised it is done after we have already given supply to the government and after the government has begun expenditures on the programs involved.

There was an intimation in what Senator Langlois said previously that the Senate has nothing to do with, or has less power than the other place with regard to, money bills. This is his pet theory, which he has recourse to especially when he does not want the Senate to amend or to kill a money bill. But I challenge him to name anyone who, knowing anything about the Constitution, shares his opinion. I can name one, for example, who does not, and I hope I will be forgiven for using Senator Hayden's name, but Senator Hayden has expressed his views on this on previous occasions and I believe he would agree with me when I say that the only constitutional limitation on the Senate with respect to money bills is that money bills must be introduced in the other place first. That is the only difference between the Senate and the other place. Of course, like the other place, the Senate cannot, without a recommendation of His Excellency, add to an expenditure. The Senate cannot add to a money bill. But the Senate can certainly amend a money bill.

● (1600)

Senator Langlois: Well, we cannot add to it. That is another limitation.

Senator Flynn: But the same limitation is imposed on the other place—exactly the same limitation. So we are on equal footing with the House of Commons except with respect to the introduction of money bills. We could very well amend a money bill by deleting an item in the estimates or by killing the bill itself. We could certainly do that, and again I challenge Senator Langlois to name anyone who, knowing anything about our Constitution and the powers of the Senate, would support him in the opposite view. It is quite clear that the Senate has the power to amend such bills. For instance, let us look at Bill C-91, although it may not be the best example. We could decrease any of these items; we could reduce the "three-twelfths" to "two-twelfths." We could amend the bill in many ways. We could, for example, delete clause 5, which relates to the power to raise a loan of $6 billion.

I mention that item particularly because I have previously objected to inserting a clause of this kind in a supply bill owing to the fact that it is not related to supply at all.

Senator Langlois: It is not an appropriation.

Senator Flynn: That is right. It is not an appropriation. I should point out that on the last occasion, when objection was taken to this in the other house, the government was forced to change the bill and bring in a separate piece of legislation to cover the borrowing authority. It is obvious, then, that simply because something has been done as a practice over the years does not make it the best practice. The borrowing authority is something entirely separate from supply, and I suggest to the deputy leader, and to the Senate as a whole, that we certainly have the power to simply delete that clause and that no one could challenge our authority under the Constitution to do so.

Senator Phillips suggested that the bill be referred to committee. I will be quite interested to see whether the Leader of the Government or his deputy accepts that suggestion. Perhaps they will reveal their views on the matter in due course. It would certainly be useful to have some clarification with respect to the objections raised by Senator Phillips as well as on other points dealing with the wording of the bill. For example, does the deputy leader feel that if the bill receives royal assent only tomorrow there will be a real problem involved with respect to government cheques? I believe he said a moment ago that the problem of the cheques, which was raised at the beginning of the sitting, was not related to Bill C-90, which provides for supplementary estimates, but was related to this interim supply bill. For my part, I cannot see any cheque of the government's being printed beforehand on money that cannot be spent before April 1. I believe it is entirely incorrect to suggest that it can. The government does not need that money before April 1. If the banks are stupid enough not to cash government cheques, that is their problem, but it should be made clear that it is certainly not the responsibility of Parliament, and especially not the responsibility of the Senate, if the banks act in such a manner, when the money we are called upon to vote cannot by law be spent before April 1.

Hon. Allister Grosart: Honourable senators, I have just one brief comment. When we were considering the supplementary estimates we dealt with this problem involving the spending of money on items which were not authorized—the spending of money by means of the dubious device of transfers. In the bill before us, however, we have in clause 3 the clear prohibition of the use of any such dubious device. It reads:

> 3. The amount authorized by this Act to be paid or applied in respect of an item may be paid or applied only for the purposes and subject to any terms and conditions specified in the item, and the payment or application of any amount pursuant to the item has such operation and effect as may be stated or described therein.

And the word "item" there means "vote."

There is, it is true, a modification of that in the next clause, which applies only to commitments. It does not apply to the spending of the money but to the commitments made, where there is an authority for the deputy minister to make commitments within certain limits, as indicated in clause 2. However, I would suggest to the leader and to the deputy leader that they might like to pass this on to those who are responsible so that we will not be faced on March 30 next year with an appropriation bill on a supplementary estimate which, in effect, states that "we, the departments, the ministers, the government, and the officials have paid no attention to the instructions of Parliament as set out in clause 3"—or section 3 as it will be when the bill is passed. "We come back now to ask you to approve what we did in spite of the clear statement in clause 3."

I do not want to suggest that any lavish expenditures be made, but one suggestion from the Senate that would save money would be to take this clause 3, have it blown up and framed, and put into every office in the Government of Canada in which anyone has the right to authorize or make expenditures. If a copy of this clause were on the wall in large letters, perhaps it would have some effect. It might save us quite a bit of money next year.

Senator Léopold Langlois: Honourable senators,—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Langlois speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Langlois: Honourable senators, again I shall endeavour to be brief in my comments in reply to the timely remarks made by my colleagues in this debate. First I will deal with the remarks of the Honourable Senator Phillips, whose main concern was with the main estimates, with only brief references to the bill presently before us, which is the supply bill for the next three months. He mentioned the two-price wheat payments, the energy item covering the carryover of oil import compensation payments, and the borrowing authority. The two first items are readily understandable and I do not think I need to comment on them extensively, because they are part of a program, insofar as the energy item is concerned, which has been in force for some time, the purpose of which is to offset the world price of imported oil to this country as opposed to the oil produced in Canada. As I said, this is a carryover from the previous fiscal year.

● (1610)

In connection with the borrowing authority, while I do not think I should elaborate on it, I referred last night to the extensive debate which took place in the other house in that respect. I do not wish to repeat what was said there; I will merely say that the debate centred mostly on the comparison between the authority sought this year and the authority sought in previous years. In this respect I would like to put some figures before the house from a table showing that authorizations sought, for example, in the years 1968-69 and 1969-70, amounted to $2 billion; in the year 1970-71 and 1971-72, and right down to the year 1973-74, the amount was $3 billion. In 1974-75 it was $6 billion, of which $5½ billion was used, the $500 million left unused being automatically cancelled by the bill presently before us. This year we are seeking authority for the same amount as last year, namely, $6 billion.

[Senator Grosart.]

These authorities are sought in accordance with the provisions of the Financial Administration Act, and in particular with section 36 of that act, which reads:

> 36. No money shall be borrowed or security issued by or on behalf of Her Majesty without the authority of Parliament.

The honourable Leader of the Opposition also dealt with this item in his remarks. He referred to the debate which took place in this respect the year before last and again last year in the House of Commons, when objection was taken to an appropriation bill which included a borrowing authority, or an increase in a previous borrowing authority. The objection was based on the fact that the appropriation bill which was being studied had been recommended by His Excellency the Governor General without any mention of the borrowing authority, and it was for this reason that the objection was made by, I think, the Deputy Leader of the Opposition in the other place, the Honourable Mr. Lambert; at least, he was acting as deputy leader or as house leader. Unfortunately, the objection was raised after the bill had been passed, and the Honourable the Speaker of the other place could only decide that it was too late, that the bill having been passed and sent to the Senate nothing could be done by that house, and that is where the matter was left.

The leader of the house, the Honourable Mitchell Sharp, who seems to have been taken somewhat by surprise, admitted at the time that a mistake had apparently been made and promised that it would not be repeated in future years. Last year a bill came before the other place with the same or a similar borrowing authority which had not been included in the recommendation of His Excellency the Governor General. It merely recommended to the house a bill based on the supplementary estimates. Since the borrowing authority was not mentioned in the supplementary estimates, the attitude was taken that the recommendation was incomplete in that it did not make any mention of this borrowing authority. The objection was then raised in good time, and although I am speaking from memory and stand to be corrected, I believe that the decision of Mr. Speaker was that in view of the situation which had developed the year before, and in view of the admission by the leader of the house that there had been a mistake, to which was added a promise not to repeat such a mistake, the point was well taken.

In the light of these circumstances the leader of the house agreed to strike out clause 5, which included this borrowing authority in the appropriation bill, and the bill was passed without the borrowing authority. Later on a bill dealing only with the borrowing authority was introduced in the house, and the required result was obtained.

The reason the leader of the house agreed to delete clause 5 was that he did not want this appropriation bill to be delayed, because of the consequences that would have ensued.

Senator Flynn: May I interrupt for a moment, honourable senator? The point I was trying to make is that it would be much better to have a separate bill for borrowing authority, in view of the attitude of my good friend, which

is one of opposition to any supply bill being referred to a committee. If the borrowing authority were to come under a separate bill, perhaps the objection would not be the same.

Senator Langlois: I will deal with this point later on, but for the present I would like to carry on with what I was saying before I was interrupted.

I took the position two years ago in this house, and again last year, that the borrowing authority was not an appropriation *per se*, and not being an appropriation *per se*, it did not need to be recommended in a message from His Excellency the Governor General. I was convinced at the time that I was right, although sometimes I have doubts about being right, as do we all, being human beings.

Senator Flynn: It never shows!

Senator Langlois: Well, I do not trust those who always claim that they are right, because we are all human and we all can make mistakes.

I recounted the circumstances I have referred to last year. I had to take a decision in the matter over the lunch hour, while eating a sandwich at the corner of my desk in my office. Before coming into the house I got the then Law Clerk of the Senate to phone the Department of Justice and get an opinion on my position. He returned with the reply that the head of the legislation branch of the department was in accord with my position. I asked the Law Clerk to have this reduced to writing, which was done, and the opinion of the Department of Justice was tabled in this house.

I do not wish to boast about all this. I took my position with some reluctance, and only after due reflection and consideration. However, as a consequence, I feel I can reiterate with some degree of certainty and conviction that a borrowing authority is not an appropriation *per se* and need not be recommended by His Excellency the Governor General to the other place before being introduced as part of an appropriation act or supply bill.

This is the reason why I cannot accept the suggestion of the Honourable the Leader of the Opposition to send this bill to a committee, because the estimates, on which this bill is based—

Senator Grosart: The main estimates.

Senator Langlois: —have been and still are before the committee, and we will have ample opportunity to discuss any item, because, as I said last night, and I think the Leader of the Opposition will have to agree with me, the passing of the present bill does not release any of the votes of the main estimates. This means that we can discuss them over and over again if we want to.

Senator Flynn: Discuss, yes.

Senator Langlois: Yes. We can do it tomorrow morning or next week. The Leader of the Opposition can get up in his place at any time he wishes to give notice of an inquiry, thus initiating consideration and discussion of any of the votes covered by the supply bill. If he wishes to do so, he can even ask the house to constitute itself a Committee of the Whole and ask the minister responsible, whoever he may be, the Minister of Finance or the President of the Treasury Board, to come and answer our questions.

Senator Flynn: And if the money has been spent?

Senator Langlois: I am coming back to this. The money has been spent, yes. That is why we cannot delay this bill. My honourable friend a while ago referred to cheques which have been issued. I have in my pocket two cheques which I received yesterday. There is a cheque for my indemnity, the same type of cheque that was issued to everybody else, and a cheque covering my stipend for being deputy leader. The Leader of the Opposition got one as well. One is dated March 21 and the other is dated March 29. As I explained last night, these cheques were issued and were spread over a three-day period, starting tomorrow and covering Thursday and Friday. As I explained, this is done to prevent any rush on the banks in those cities where there is a heavy concentration of public employees. Anyone can imagine the situation with thousands and thousands of public employees rushing to the bank on the same day to cash their cheques. That is why this process is spread over three days. Some cheques had to be sent to distribution centres from one end of the country to the other, and indeed some cheques had to be sent to points outside Canada.

● (1620)

Senator Phillips mentioned a while ago that the computers were printing the cheques, but they are in fact printed already and have gone out, and if this bill is not passed in time, then any cheque dated March 31 could not be cashed. We have evidence that at least one bank in Ottawa has issued instructions to its branches not to cash government cheques before the date written on them, and if this instruction were adhered to it could create serious inconveniences for public employees. As I have said before, I am not so much worried about those in the higher pay brackets, but I am worried about those in the lower brackets, because many of them will need this money badly before the weekend.

Senator Grosart: I am not clear on this point. Would the deputy leader not agree that any cheque dated March 31 could only be met out of moneys provided in the supplementary and main estimates for the current year, which would have nothing whatever to do with this bill because surely not one cent of the supply that we might grant today or tomorrow could possibly be applied to the cashing of a cheque dated March 31? How could it be so when the estimates cover the period starting April 1 which is the next fiscal year?

Senator Langlois: But that is the day after tomorrow.

Senator Flynn: Your cheque is not based on this bill.

Senator Langlois: Possibly my own cheque is a bad example, because the House of Commons and the Senate work on a different basis from departments of government, but I mentioned these cheques because Senator Phillips mentioned—at least I think it was he—that the government would not issue cheques when there was no money in the bank.

Senator Grosart: Would the Leader of the Government tell me if the money we are asked to vote in this interim supply bill has anything whatever to do with, or if it could possibly be used to cash, a cheque on March 31? That is the question I am asking.

Senator Langlois: I am sorry, I think I missed part of your question.

Senator Grosart: I am asking quite simply if any of the money we are asked to grant, or any of the supply in the interim supply bill, could be legally applied to cashing a cheque dated March 31?

Senator Langlois: Yes, indeed.

Senator Flynn: Oh, no.

Senator Grosart: It could? Then that means that the money can be used before we pass it. Surely this is the supply for the new fiscal year.

Senator Langlois: But these cheques are spread over the period from tomorrow until Friday, and any cheque dated March 31, if the supply bill is not passed, cannot be cashed because there will be no money to meet it.

Senator Grosart: But that again is not the question I asked. You are speaking now of the money that we are being asked to supply being used before April 1. Surely it cannot be spent before then.

Senator Langlois: It cannot be spent if it is based on estimates of the past year, but the cheques are for the month of April, and the new fiscal period starts on April 1.

Senator Grosart: But surely it does not matter what period the cheques are for. It is the date of the spending of the money that is important.

Senator Langlois: At any rate, that is the information I have from Treasury Board officials.

Senator Forsey: Well then they had better go back and get further legal opinion from the Department of Justice.

Senator Langlois: You can be smart when you stay put in your seat. This is supply for the coming fiscal year, starting April 1, and these cheques now in the mail will be paid out of these estimates.

Senator Grosart: It does not matter what funds they are paid out of, it is quite illegal if the money is spent on the day before the day it is authorized to be spent.

Senator Langlois: Well, if my friends wish to take the responsibility for delaying passage of this bill, and if they want to accept the fact that if this bill is not passed today, there will be serious consequences for people who will be receiving their pay cheques in the next few days, then that is their affair.

Senator Grosart: Perhaps I could suggest at this stage that this might be the best reason of all for sending this bill to committee, so we can have the officials explain to us what the serious consequences would be if we do not pass this bill today. In view of the suggestions made by the deputy leader, it would seem to me to be the best reason in the world for having it go before committee and certainly the best that I have heard yet.

Senator Langlois: I am just in receipt of a note which informs me that the payroll question is related to Bill C-91, interim supply, and not to supplementary estimates (B) That note has come to me from the departmental officials in the gallery. I have a further note which has just come to my attention which is to the effect that the pay cycle for most public servants is two weeks, ending Friday, April 2, to be given to public servants on three pay days, Wednesday, March 31, Thursday, April 1, and Friday, April 2, and the cheques are dated April 2, 1976. The cheques have been printed and distributed to payroll personnel across Canada to be given out only when approved by Parliament.

Senator Flynn: But they have already been given out, apparently.

Senator Langlois: Only when approved by Parliament. At least that is what the note says.

Senator Perrault: To be given out when approved by Parliament.

Senator Langlois: But apparently some cheques got into the hands of some public servants.

Senator Grosart: How did that happen? Did they steal them?

Senator Langlois: And there would be serious consequences if we did not honour these cheques.

Senator Grosart: Did they steal them?

Senator Langlois: Oh, come now, be serious!

Senator Grosart: But surely the deputy leader has just said to us that the note he has says that they are to be given out only when approved by Parliament. Then I understood him to say that they had already been given out.

Senator Langlois: There is yet a further note on my desk from the same source to the effect that personnel have worked eight out of ten days in 1975-76. The note reads as follows "Your cheques and those for the other place were on a different cycle, March 29, March 30 and March 31," which is what I said a little while ago. Is the honourable senator suggesting that this information which I have received from an official of the Treasury Board is incorrect?

● (1630)

Senator Grosart: No, but I am suggesting that the notes which the deputy leader has do not answer my question. All they say is that there is a certain cycling of the time at which these cheques are sent out. I am asking: Is it legal to spend the money we are asked to approve today before it is approved? That is all I am asking, a simple question. I do not care how much cycling there is, or how many cheques are sent out in advance. Is it legal for the government to spend $1 before it is authorized by Parliament? Perhaps it is.

Senator Langlois: Honourable senators, we could argue all day.

Senator Grosart: No; I am just asking that question.

Senator Langlois: I have answered that question, I believe, three times, and if you do not agree with me, say so.

Senator Grosart: Is the deputy leader saying that it is legal?

Senator Langlois: Yes, it is.

Senator Perrault: The Province of Ontario does the same thing. Your government does the same thing.

Senator Grosart: That does not make it legal.

Senator Perrault: It certainly does not.

Senator Langlois: I would like to comment briefly on one further matter, and that is the suggestion made today and also last night by the Leader of the Opposition that this bill should be referred to the Standing Senate Committee on National Finance.

Senator Flynn: You have dealt with that.

Senator Langlois: As I mentioned, we have debated this matter during many previous sessions and I do not think that any further discussion today will bring us closer one to another, because the more we discuss it the farther apart we appear to be. I know the honourable senator does not like to hear about the practice of this house, but in my opinion the practice is a very important matter in parliamentary institutions. It has never been the practice to refer such a bill to committee, because the estimates upon which the bill is based are already before the committee and there would be repetition of the debate and discussion. There is also another opportunity, when appropriation bills based on the same estimates come before the house, for debate by honourable senators. All that can be said is that they will come after the money for the most part has been spent. However, this is a situation that we are used to in parliamentary institutions. Because of the delay involved in the parliamentary process, final approval is very often given to estimates after the moneys have been spent. This is not the only parliament in which such a situation exists. Similar complaints are raised in other parliaments, and it is one of the consequences of the process in this institution. There is opportunity, however, to become acquainted with, and to discuss and examine closely, the expenditures of the government. This can be done on many occasions during the course of a session.

As I remarked earlier, and I repeat, the passing of this bill does not release any item in the main estimates on which it is based. This guarantees the freedom of any member of this house to rise at any time during the session to draw the attention of the Senate to any particular item or group of items, as he wishes.

Senator Grosart: May I ask the deputy leader what he means when he says that the passing of this bill does not "release" any of this money? If it does not do that, what is its purpose? Surely its whole purpose is to release the money so that it can be spent.

Senator Langlois: Partial authorization of an expenditure does not release the vote item.

Senator Grosart: Unbelievable!

Senator Benidickson: Honourable senators, other questions I had planned to raise have now been answered. Under the new suggested procedure, between now and some time in June we may have a bill that grants full supply. Prior to that time, if the Standing Senate Committee on National Finance reports on an interim basis on the main estimates which have been referred to it, we would be able to proceed as suggested by the deputy leader in speaking to Bill C-91 yesterday. However, while he has explained that basically we are passing three months' supply, he did indicate where we are passing more than three months' supply. My attention is drawn to the fact that in schedule F to the bill supply is being requested to the end of April, and in schedule E supply for two-twelfths of the total is requested, which would go to the end of May. With respect to those items, is there any reason to believe that we will not require in May or June a continuation of the second item on page 12, the payment to the refiners of the subsidy to keep oil prices lower east of the Ottawa Valley line? I see that in item 1, for the administration of the Department of Energy, Mines and Resources, only one-twelfth is requested, but in the same item it is stated that the department can spend revenue received during the year. Why do we not now need appropriations for these various items contained in schedule E and schedule F for the full three months?

Senator Langlois: In reply to this question I would like to repeat part of what I said last night in connection with the items covered by Bill C-91. I said:

> This bill, in the amount of $4,970,732,370.57, is the first interim supply bill for the 1976-77 fiscal year, and will release a general proportion of three-twelfths of the items to be voted in these estimates as well as additional proportions for 35 votes.

I provided a listing of those votes which require additional proportions, and will dispense with the remainder of this. As I explained, of some of these votes the larger proportions are released because greater expenditures are called for early in the calendar year and they are thus spread over—

Senator Flynn: That is not the point. Senator Benidickson asked about the items for which you are requesting less than three months' supply.

Senator Langlois: Yes, this is a general proportion. It could be less for some items.

Senator Flynn: If you do not have the answer, why do you not say so?

Senator Langlois: But this is a general proportion. That is why I am repeating the wording of the statement I made last night. It is a general proportion of the items.

Senator Flynn: Then you do not know.

Senator Langlois: The amounts are there.

Motion agreed to and bill read second time.

THIRD READING

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

Senator Langlois: With leave, and notwithstanding rule 45(1)(*b*), I move third reading of the bill now.

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

Senator Flynn: I suppose it would be useless to refuse leave, since the deputy leader does not wish to move that the bill be referred to committee. Of course, even if we on this side refused leave, we would be roundly defeated. However, in my opinion, the debate this afternoon has shown that the referral of this bill to committee would have been useful, particularly since we could have been given answers to such questions as that asked by Senator Benidickson. In many instances the deputy leader did not have the answers, but then he should not be expected to know all the answers.

● (1640)

I do not object to papers flying from the gallery, or an opinion from the Justice Department being tabled, such as the one tabled a while ago. It reminds me of a recent occasion when the Leader of the Government refused to table such an opinion. Apparently if it is useful to the government to table them, they table them; but if it is not, they do not.

In view of the circumstances, we will give leave, on condition that if we decide to raise a few more questions on third reading, to which questions the Deputy Leader of the Government does not have the answers, he will not subject us to too lengthy a reply.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to and bill read third time and passed.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

30th March, 1976

Madam,

I have the honour to inform you that the Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 30th of March, at 9.45 p.m., for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière,
Administrative Secretary to the
Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

Senator Flynn: On a question of privilege, had we known that royal assent was not to take place until tonight, we could have moved that the bills be referred to Committee of the Whole in order that we might question the officials here.

Senator Perrault: I move the adjournment of the Senate until 8 o'clock this evening.

Senator Flynn: Will the only item tonight be the speech of the Leader of the Government on Bill C-58?

Senator Langlois: And probably that of the Leader of the Opposition too.

[Senator Flynn.]

Senator Perrault: That is a strong possibility.

The Senate adjourned during pleasure.

At 8 p.m. the sitting was resumed.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, March 25, the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Raymond J. Perrault: Honourable senators, we have under discussion in this debate the principle of Bill C-58, to amend the Income Tax Act. If passed, this measure would disallow the deduction, as a business expense, of funds expended for advertising in all non-Canadian periodicals and on all non-Canadian radio and television stations. Should this bill receive second reading in the Senate, it may well be that honourable senators will agree to have it referred to the appropriate standing committee of the Senate, before which many witnesses will appear to set out their views with respect to what is, unquestionably, an important piece of proposed legislation. I understand that a number of organizations and individuals have already requested an opportunity to appear before the Senate committee for purposes of putting forward their views on this measure. This is their right and I am sure that their submissions will be reviewed carefully and constructively. But for the present we are concerned only with the principle of Bill C-58—a bill which, admittedly, has been somewhat controversial. Certainly, it has proven to be a much discussed measure in the other place.

What about the principle? On January 23, 1975, without dissent, spokesmen for all political parties in the other place expressed their warm endorsation of the principle of Bill C-58. It was the unanimous view that action was required by the Government of Canada with respect to Canadian tax deductions for advertising directed to Canadians placed in non-Canadian publications and broadcast outlets. So we know the principle is endorsed by the leadership of all parties in the other place.

Senator Flynn: There is a difference between purpose and principle.

Senator Perrault: The principle was endorsed by the party leadership in the other place. There is some disagreement concerning the most appropriate method to implement that principle. For several years now, a consensus has been developing that the benefits from the tax deduction provisions of the Income Tax Act in respect of advertising in periodicals, as well as radio and television advertising, directed to the Canadian consumer, ought to accrue to the benefit of Canadian periodicals and broadcasting outlets, and to none other.

Senator Smith (Colchester): Oh, dear me!

Senator Perrault: In other words, the belief has been held generally by Canadians that if we are going to speak to the Canadian consumer via radio and television, then

we should provide positive encouragement to have those messages presented via Canadian taxpayers' information media. I believe there has been at least some misunderstanding as to what Bill C-58 would mean to the free flow of information in Canada.

Senator Grosart: It would mean censorship.

Senator Perrault: It is not censorship, and I am rather surprised that one who has been associated with the media field should make an allegation of this kind. Perhaps at some point the honourable senator will stand up and proclaim the reasons for his opposition to the assistance of the communication media in Canada.

Some have suggested, quite inaccurately, that passage of Bill C-58 will see the press in fetters, that freedom will be in fetters, that if Bill C-58 becomes law, somehow there will be a diminution in the total range of human freedoms in Canada. I reject the notion.

Well, what are we talking about with respect to *Time*?

Senator Flynn: That is a good question.

Senator Perrault: It is a good question, senator, and I would invite you to speak on it. We should know your party's position on it, because it is a question on which many in your party have been squarely on the fence for quite some time. I suggest to the honourable senator that he go back to the O'Leary report, which sets out some of the reasons which have inspired legislation of this type for Canada. Senator O'Leary is a distinguished colleague—unfortunately, he is ill at the present time—who has made as great a contribution to the dialogue on this issue as any other person, and he should be commended by all of us.

Senator Flynn: Perhaps not to the solution you are proposing.

Senator Perrault: What about diminution of freedom? What freedom does Bill C-58 diminish? The Canadian advertiser who wishes to direct his message to an American audience or to an international audience—for instance, a travel organization in Canada attempting to sell tours or vacations in the United States—will continue to have advertising in *Time* magazine fully deductible as an expense of business. That is not a restriction on freedom. Indeed, *Time* magazine has stated that it is even going to continue to accept Canadian advertising directed to Canadians, but is going to reduce the advertising rates. They will still make money. Canadian advertisers who wish to advertise to Canadians without realizing the tax deduction benefits available under the present legislation may continue to do so. Indeed, I have a copy of *Time* magazine for this week. In it there is a full-page advertisement for Gilbey's Gin, a well-known Canadian product. Then we see another full-page advertisement which reads:

> Benson and Hedges 100's Longer.
>
> Smoother. Milder.
>
> Health and Welfare Canada advises that danger to health increases with amount smoked.

I am sure that is true. But somehow these great Canadian corporations still believe that *Time* is a useful advertising "buy", despite the fact that they are not getting a tax deduction.

Senator Beaubien: They are not Canadian corporations.

Senator Perrault: These are. Let us go through the magazine. There is an advertisement of the Travel Industry Association of Canada. There are several Canadian advertisements. We read another advertisement headed: "The proud smoke: Product of a proud land".

Senator Flynn: What are you trying to prove?

Senator Perrault:

> —Over 100 years of tobacco heritage. Health and Welfare Canada advises danger to health increases with amount smoked.

Senator Flynn: May I ask—

Senator Perrault: Just jot down your questions, honourable senator, and I will attempt to answer them later. A great many inaccuracies have been uttered during this debate and I shall endeavour to correct the record.

Senator Flynn: You want to substitute other inaccuracies.

Senator Perrault: The cost of *Time* advertising directed to Americans, to Australians, to people overseas, will still be fully deductible as a business expense for Canadian companies.

Senator Flynn: How do you know these advertisers did not pay in advance?

Senator Perrault: Similarly, those companies which choose to employ border broadcast outlets to attract Americans to purchase Canadian products and services may still continue to deduct the cost as a legitimate business expense.

What will the bill not permit? The bill will not permit companies to deduct the cost of advertising in United States-owned magazines and television outlets when the advertising is directed to Canadians. This was a provision that was established several years ago, but *Time* magazine was given a special exemption. This bill says, "Special privilege to none," "Favouritism to none," "Equality for all." Yes, equality for the first time in Canada to *Time*, to *Newsweek*, to *Argosy*, to *McCall's* and *Better Homes and Gardens* and all the rest—equality; the end of special privileges.

Senator Flynn: Do you realize you are speaking to adults?

Senator Perrault: It is interesting that for so long we have heard from the Opposition about the need for fairness, for more equality.

Senator Smith (Colchester): Just the Opposition?

Senator Perrault: Now we have the big foreign-based magazines competing in the same Canadian league under similar conditions—no special privileges.

Senator Smith (Colchester): Why won't you get in it?

Senator Grosart: Would the Leader of the Government permit a question?

Senator Perrault: Senator, would you jot your question down? I shall endeavour to reply to it as effectively as possible should you ask it later on.

● (2010)

Senator Grosart: Would the honourable senator permit a question?

Senator Perrault: I do not want my train of thought to be derailed at this particular junction.

Senator Grosart: We are hoping on this side that it might be derailed a bit.

Senator Perrault: This bill will not permit companies to deduct the cost of advertising in any American-owned magazine and television outlet, when that advertising is directed to Canadians.

Senator Flynn: Terrible!

Senator Perrault: Is this proposal unreasonable?

Senator Smith (Colchester): Yes.

Senator Perrault: Does it strike at the heart of freedom, as has been suggested?

Senator Smith (Colchester): It strikes at freedom of advertising.

Senator Perrault: Will it be the end of freedom in Canada, as some have suggested? Some of our friends, lobbying energetically here in Canada—as is their right—on this issue, say that Bill C-58 is the end of freedom. And what about United States-Canada relations? Does Bill C-58 endanger our relations with the United States, as Senator Beaubien stated the other day in his usual eloquent fashion? Honourable senators will have their own views about these and other questions—and almost certainly these and many other important questions will and should be raised during the committee consideration of Bill C-58. But, honourable senators, I have yet to be apprised of one country in the world occupying a geographical position similar to Canada's position vis-à-vis the United States, a small country—

Senator Flynn: Small!

Senator Perrault: —adjacent to a huge country, relatively speaking, which permits the deduction of advertising costs in foreign magazines when that advertising is directed exclusively to its domestic market at such a large proportionate cost in lost revenues to its domestic media. Not one of the opponents of the bill has yet to suggest any instance in the world where this is true.

Senator Flynn: Tell me where it is not true.

Senator Perrault: I can tell you this, honourable senators, and especially my good friend the Deputy Leader of the Opposition, a member of the great historic Conservative Party, that one of the last acts of the last Conservative government in Britain was to make it an actionable offence for any British company to purchase advertising on a foreign station that broadcast those advertising messages back to consumers in Great Britain.

Senator Smith (Colchester): Oh, yes, but that was with respect to the pirate stations in the North Sea.

Senator Perrault: I suggest to honourable senators that the Mother Country has a great affection for freedom and for the rights and privileges of the ordinary people.

Some Hon. Senators: Oh, Oh!

Senator Perrault: So the great historic Conservative Party in Great Britain made it an actionable offence for British advertisers to buy time on foreign stations if the messages from those stations were directed to British consumers. The law still stands. I would be interested to know the honourable senator's comments on that intriguing situation.

[Senator Grosart.]

Senator Grosart: Would you like them now or later?

Senator Perrault: Later. The fact is that most—

Senator Grosart: Would the honourable senator like the comments now?

Senator Perrault: Plus tard, s'il vous plait. Later, please. The fact is that most countries in the world today—

Senator Flynn: That is not true—

Senator Perrault: —are acutely conscious of the need to be concerned about the welfare of their domestic communications industry—without exception.

Senator Flynn: That is a generality.

Senator Perrault: No contrary evidence has been produced anywhere in the debate in either chamber.

Senator Smith (Colchester): It is there, if you can see it.

Senator Perrault: There is no evidence of other countries which accord special status of the kind we have accorded to *Time* magazine in this country for so many years. There is not one example. There is not one example from any stage of debate in the other place of any special status elsewhere of the kind we have accorded to *Time* magazine in this country—

Senator Smith (Colchester): We will put it into Braille for you.

Senator Perrault: —let alone the special status which, uniquely, among all the 135 or so countries comprising the United Nations, we have accorded to the border broadcasters in this country.

Senator Grosart: Would the Leader of the Government like a question on that now or later?

Senator Perrault: Later, please.

Now, what does Bill C-58 endeavour to do? It seeks to normalize a situation which has been highly and uniquely abnormal for many years. It is a situation which has seen the continuance of an arrangement whereby two very large, foreign-owned periodicals—

Senator Smith (Colchester): Only one.

Senator Perrault: —one with a weekly circulation of 1.4 million, together drew off $20 million of the $39 million of advertising revenue earned in 1974 by all of the 13 largest consumer magazines in Canada. While the situation in respect of *Reader's Digest* has been resolved, and that publication will now meet the guidelines—

Senator Smith (Colchester): By bending the rules.

Senator Perrault: —it has now been able to meet the standards which Bill C-58 hopes to establish.

Senator Smith (Colchester): To meet the different standards.

Senator Perrault: But what has *Time* done? Some of our friends in opposition are terrified by the facts. What has *Time* done?

Senator Flynn: You are terrified by your own members—those who oppose the bill.

Senator Perrault: *Time* has withdrawn its Canadian edition.

Hon. Senators: Oh, oh.

Hon. Senators: Order!

Senator Perrault: Many Canadians regret the fact that *Time* no longer has four pages of Canadian news.

Senator Smith (Colchester): Six.

Senator Perrault: The honourable senator must be an avid reader.

Senator Buckwold: He reads slowly.

Senator Perrault: Honourable senators, I have read *Time* magazine for years, and I miss those four pages.

Senator Flynn: Six pages.

Senator Perrault: But I was at the newsstand at the airport at the beginning of the week and there were stacks of copies of *Time* magazine all over the place, the only difference being that it now sells for a dollar a copy.

Senator Smith (Colchester): Sure, thanks to this legislation.

Senator Perrault: It is freely available.

Senator Flynn: Freely?

Senator Perrault: It is available without restriction. But now, without question, it is the U.S.-owned and basically U.S.-edited, and unadornedly the U.S.-directed, publication it has always been. It now enjoys, for the first time in years, equal status with *Newsweek, McCall's, Harper's, Better Homes and Gardens* and the *Atlantic Monthly,* along with the flood,—the virtual inundation—of American and other foreign-owned publications which occupy any hotel newsstand or news kiosk in Ottawa or any other city in this country.

Senator Flynn: That proves you are achieving nothing.

Senator Perrault: The existence of so many American and foreign publications on our newsstands gives the lie to the idea that Bill C-58 constitutes censorship. Indeed, honourable senators, our national policy towards the importation of foreign magazines and publications is without question the freest in the world. No wonder, honourable senators, that a few weeks ago, Freedom House in the United States once again proclaimed and rated Canada as the freest country in the world. Undoubtedly, one of the reasons inspiring the award is our open attitude toward the free circulation of magazines and other information. Yet the Deputy Leader of the Opposition says that Bill C-58 means censorship. He cannot be serious.

Senator Smith (Colchester): He is a serious man.

Senator Perrault: There is no valid case for anger against this nation, which permits the free and unfettered entry of millions of periodicals a year, and thereby permits enormous revenues to accrue to our neighbours in the U.S. and other countries. What other country does this in such a generous way? Again, if there are other countries with a freer attitude towards the circulation of magazines from all over the world, let that country be named. It has not been named so far in this dialogue and debate on Parliament Hill.

Senator Grosart: Name one that has not.

Senator Perrault: A number of impassioned speeches have been made in defence of *Time*, now that this bill seeks to give it equal status with its counterparts. I suggest to you, honourable senators, that *Time* really needs no sympathy. Its publishing empire will continue to make handsome profits, as it has in the past and, if I may say so, I believe that some of the sympathy that has been generated may be misdirected. May I suggest, when speaking of *Time*—

Senator Smith (Colchester): It is fleeting.

Senator Perrault: —that I marvel, and all of us in the Senate should marvel, that it has learned so abysmally little about the Canadian system of government, after its long years of landed immigrant status.

I would like to quote from an essay in *Time* of March 8 last, written by Stephen LaRue, President of *Time*. In writing about the demise of *Time's* Canadian edition he said, in part:

> Its editorial staff . . . regularly prepared and published Canadian cover stories. The last: a report on the election of the Conservative Party's new leader, Joe Clark. *Time* Canada was warmly received by readers.

I am sure it was by some of them. He goes on:

> *Time* Canada was left with no choice but to cease publication when the House of Commons in Ottawa approved a government bill last week.

I know that I echo the view of most senators when I say that Mr. LaRue, this citizen of the United States, head of *Time* Canada, obviously has not learned much about the parliamentary process in Canada since he came here to take over the *Time* operation in Canada.

● (2020)

Senator Grosart: He must have been here this afternoon.

Senator Perrault: And then, in what can only be described as an act of corporate petulance, shortly thereafter *Time's* subscription rate for Canadians went from $18 to $30 a year. I have here the subscription form where it says, "Please send 26 weeks of *Time* and bill me later for $15." Then it has another box where it says, "I prefer 52 weeks for $30. Rate good just in Canada."

What is good about the rate? The rate in the United States is $18 a year, although they are talking about putting it up to $22. *Newsweek* magazine, which has circulated these many, many years in our country without any special status, gives its subscription rates to Canadians on page 4. Again, I have a copy of this magazine and it says, "*Newsweek* is published weekly, $19.50 a year . . ." Compare this with *Time's* rate "good just in Canada" of $30—over 36 per cent higher than the highest proposed U.S. rate, and 54 per cent higher than *Newsweek's*. So, in other words, Mr. LaRue has told Canadians, "It is through Parliament now; we are finished; we are going to pull out because the House of Commons has approved it." He was not at all concerned

about the Senate or the royal proclamation or any other aspect of the parliamentary process. He boosted the Canadian subscription rate up to $30 a year, $1 a copy, while *Newsweek* meanwhile circulates at $19.50 a year. These actions were taken before the bill had even arrived in this chamber and before the Banking, Trade and Commerce Committee of the Senate, one of the most effective committees in this country, had been accorded an opportunity to consider the situation of that publication. They fired all their employees, sent them packing, saying "Go find another job; Bill C-58 is through Parliament." No, Mr. LaRue has not learned very much about the political process in Canada.

Many senators have had long, distinguished careers in business, and they know some of the problems associated with making enterprises productive in our country. This is one of the aspects of the communications industry problem which confronts us all, regardless of our political beliefs or whether we choose to laugh at the bill or whether we take it seriously, Mr. Leader of the Opposition.

Senator Flynn: I am not laughing at the bill. You should know that I am laughing at you.

Senator Perrault: Would you squirm sitting down, senator? That would be helpful.

They know the competitive cost problems of Canada's shorter production lines; they know the allied problems associated with productivity, and they know the economic challenges of a successful Canadian commercial operation.

Senator Smith (Colchester): Who are you talking about?

Senator Perrault: I am talking about senators who have been associated with business enterprises. They know that in Canada we lack the production and per unit economies that are brought about through large-scale production. Let us take soap companies, for example. One executive told me a few months ago of some of the problems that we have in soap manufacturing. He said, "In the United States we can keep per unit costs low. We can build a soap factory and manufacture only Oxydol in one of the plants, and we have other plants which manufacture exclusively some other brands of detergent. But not so in Canada."

Senator Flynn: We have a soap opera here tonight.

Senator Perrault: He said, "We have short runs here and it increases the per unit cost of that product." This is very much the nature of the problem facing the publishing industry in this country. Where access to markets is limited, the economics of a commercial operation are equally limited. Similarly, Canadian publishing is experiencing to some degree the same kind of "production run" problems which make it difficult for some of our Canadian companies to compete internationally. We lack the economy of scale. The economy of scale for publishers is, of course, circulation. We do not have as many people who are potential subscribers to a news magazine in our country as they have in the United States. This is pretty basic to the nature of the problem. Small production runs pose major problems for Canadian manufacturers. Tariffs often help to overcome them, but in the realm of ideas and communications, ultimately, small circulation constitutes a genuine disaster if there is massive competition from abroad. In the critical area of communicating ideas, our communications media, our publishers, our television industry, our recording industry, cannot be allowed to gurgle down the drain to annihilation because of what can only be described in the present situation as cultural dumping in this country. This view does not mean one is anti-American, or unfriendly to any country; it is an economic fact of life. *Time* magazine—it has been said many times before, but it bears repeating—has had all its production costs covered by its millions of United States circulation. It has enjoyed a preferential advertising position. *Time's* printing plates are flown up from Chicago or New York, put on Canadian offset machines and rolled off in Canada. Almost all of the typesetting of *Time* magazine is done in the United States. We do not even have an adequate number of jobs for Canadian typesetters. What does this do to the competitive position of those who wish to establish a native, viable news magazine in this country? Faced with the fact that the per unit cost of every *Time* magazine is infinitely less than anything he can produce, the Canadian publisher must produce a news magazine of exceptional excellence which will attract Canadians to the magazine stands, and perhaps—as Bill C-58 suggests—he should be given a fair economic opportunity to compete.

Senator Grosart: Which applies to thousands of products.

Senator Perrault: You know, honourable senators, no concerned and self-respecting country, as I have said, would permit its communications industry to expire because of unfair competition and gurgle down the rain—gurgle down the drain.

Senator Grosart: They wrote that twice for you.

Senator Perrault: Honourable senator, I want you to know that I wrote this myself. I do not rely on writers, as do some of my friends opposite may do.

Senator Flynn: Well, you should; you should.

Senator Asselin: Will you swear to that?

Senator Perrault: Let us talk about Mexico, for example—

Senator Grosart: Do you mean that you wrote that "gurgle down the drain" yourself?

Senator Perrault: Senator, don't be so terrified of the facts. You will have your opportunity to reply. You know, a short while ago the President of Mexico spoke about his relations with the United States, the neighbour which abuts the Mexican border on the north. This is what he said—

Senator Smith (Colchester): So did the President of Cuba.

Senator Perrault: He said their relations with the United States are very good, and continued:

> But in daily economic relations—the problems of prices, imports and exports, possible investment, the conditions of acquiring technology—we in Latin America, and particularly Mexico, are confronted with a dilemma. We either open up to the economic investments, life-style and psychological attitudes, all for the economic development of the U.S.—in which case we are favoring a process of colonization—or we try to

exploit our natural resources and seek alliances in our own self-interest.

Then he announced that they intended to cancel 20 American television programs from the Mexican national television network, because they felt their themes were inimical to the best cultural interests of Mexico. Some they cancelled because of alleged violent themes, because they portrayed certain aspects of society that Mexicans did not want to see emulated in their country. Just as in Mexico, I suggest, honourable senators, that every nation has to be concerned about its culture, its arts, the advancement of its writers and its communications industry.

Senator Flynn: About the United States, you mean.

Senator Perrault: This does not mean to say that because of its attitudes and actions Mexico is any less a good neighbour of the United States. Indeed, relations are extremely good between Mexico and the United States.

With respect to television, we in Canada have acted quite differently. We do not impose specific bans on American television programs, although the Conservative Government of Ontario has a commission under way, headed by a former minister of the Crown, to decide whether some allegedly violent United States programs and others should be removed from television stations in Ontario. We in this government have not taken such action.

Senator Grosart: It is too bad that you haven't.

Senator Perrault: The government suggests that it is not narrow chauvinism to insist that our communications media reflect Canada and Canadian values and that we act to assist Canadians to achieve their potential as writers, producers, performers and artists, despite the overwhelmingly large cultural neighbour to the south of us. This policy of denying, at the very least, special status to U.S. publishers and broadcasters in no way diminishes our feeling of brotherhood and friendship with the United States.

As I have said, *Time*, because of its vast market, its millions of copies per week in all editions, is in an absolutely unassailable position to achieve the economy of scale denied to any Canadian publisher. In other industrial sectors we establish tariffs or quotas to protect certain Canadian industries against what we construe to be dumping or unfair competition. Honourable senators are aware of that. Indeed, the Deputy Leader of the Opposition's party has been one of the great historical proponents of developing a protectionist policy for Canadian industry.

● (2030)

Senator Flynn: Smoke screen!

Senator Perrault: The per unit cost of producing *Time* is negligible in relation to similar efforts in Canada, no matter how earnest or efficient the effort. That is why *Time* has made so much money in Canada. I understand that it has been the most profitable section of the *Time* operation based on investment of capital. Almost all of its production cost is covered by the U.S. editions, as I have said. Canada has been the high profit overrun, the icing on the production cake, the "Northern bonus" for *Time* magazine. That is not to say it is not a good magazine, an interesting magazine, but it happens to make a lot of money out of Canadians because of our magazine policy.

Bill C-58 suggests that at least *Time* should enjoy no privileged position, no special status.

An Hon. Senator: Hear, hear.

Senator Perrault: *Time* has responded by cutting its advertising rates. It has said it has now decided that it can stay in business even by cutting the rates. Presumably the new rates will attract some Canadian advertisers, who will wish to continue to speak to Canadian consumers through the pages of *Time*. But be assured that *Time* will continue to make money—that is what they are in business for, and that is why everyone goes into business—which is more than most Canadian periodicals will be able to say at the end of this year. Despite this legislation, *Time* will still be in a substantially better profit position, I suspect, than most of our domestic magazines.

Some have suggested that the end of *Time's* so-called Canadian edition will not help publishing in Canada. I think it will. Another Canadian news magazine is in the formation stage. *Maclean's* is in existence now. Those two publications may or may not be successful, but those are the risks of private enterprise. I hope they are successful. Whether they say nice things about the government or not, I hope they are successful. I think it is good for this country. And all of us should welcome a viable news magazine in Canada's other official language. It is just as important to Canadians who speak French.

Senator Flynn: I wouldn't say that.

Senator Perrault: The readers will ultimately decide. The Deputy Leader of the Opposition, who has been in the communications industry, knows that the reader, the consumer, always decides whether or not he likes an advertisement, is going to buy a magazine, or watch a television program. If those magazines are successful—and I think most of us want them to be successful—they will give us for the first time an indigenous news magazine industry, a privilege enjoyed by every other mature country. Look at Germany, France and Britain. They all have their indigenous news magazines. How long would Britishers tolerate, for example, special tax status for a British edition of *Time* magazine with four pages devoted to coverage of the British scene? Do you think special tax status would be permitted, my honourable friend, in Paris for a French edition of *Time*, plated in New York, typeset there, with four pages covering French news? Of course not.

Senator Flynn: They would have to translate it.

Senator Perrault: The honourable senator should shuck off his inferiority complex and decide that Canada may now be able to move out into its own news magazine industry. If these magazines are not successful—they may not be successful, and some Canadian investors may lose a great deal of money in the process—then our free market economy will inevitably see the redirection of millions of dollars of advertising money going to the support of other media.

As the honourable senator is aware, with his extensive background, those dollars may go to TV, radio, billboards, direct mail, even painted barrage balloons and skywriting.

Someone may even want to sponsor the televised debates of the Senate—one never knows.

Senator Flynn: Tonight's sitting would be worth it.

Senator Perrault: If he or she is not satisfied with Canadian news magazines, the consumer will say so and advertisers will simply turn to other advertising media. Whether those magazines succeed or fail, there will be a net benefit conferred on this nation by Bill C-58. Millions of advertising, promotional and production dollars will remain in this country. They will be spent in some fashion because Canadian industries in their enterprising way will still want to sell products to Canadians. After Bill C-58, freedom will be as unfettered as ever.

Bill C-58 refers to broadcasting and televising. I should like to conclude my remarks with references to this field, which is very important. Some honourable senators have spoken eloquently on this subject. I have agreed with some, and disagreed with others. When the bill goes to committee, we will be able to share our thoughts on the matter more fully.

Senator Flynn: Did you agree with those who oppose this bill?

Senator Perrault: These references to broadcasting have commercial and viewer implications across Canada. It may be that our negotiations with our friends to the south should be resumed for the purpose of discussing the ultimate aspects of television and radio broadcasting, cablevision, and the question relating to the ownership and rebroadcasting of program material. I do not resist that idea at all. I think it is very important that we continue discussions and negotiations in those areas.

Senator Flynn: Resist passage of this bill, then.

Senator Perrault: Let us attempt to keep the broadcasting section of this bill in perspective. Basically, the bill states that Canadian advertisers who wish to speak to the Canadian consumer through U.S. broadcast outlets may do so on any U.S. station they wish, but they may not deduct the cost of that advertising as a business expense. That is all the bill says.

Senator Forsey: Hear, hear.

Senator Perrault: If a Canadian business wants to advertise to Canadians on a U.S. channel whose signal is being beamed back to Canada, that expenditure will not be considered a tax-deductible expense. Honourable senators are going to be called upon to determine whether Bill C-58 restricts the freedom of these U.S. stations, or the rights of Canadian businesses. We do know certain facts. Let me cite the case of channel 12 in Bellingham, Washington, a situation with which I have been very familiar over the past 25 years.

Senator Flynn: So has Senator van Roggen.

Senator Perrault: In 1953, an enterprising, resourceful American citizen, and a former friend of mine, no longer living, Mr. Rogan Jones, in the free enterprise tradition, saw in the greater Vancouver market a tremendous potential for television. He also noted that the Canadian development of the industry lagged considerably behind that of the United States. Mr. Jones had a successful radio station in Bellingham, Washington, a small community, "as the crow flies," about 25 miles from Vancouver. He made a great deal of money with that radio station because he was an efficent operator. He applied to the Federal Communications Commission in Washington for a television licence to serve the hardworking citizens of northwest Washington, saying that he wanted to bring news, entertainment and community service programming into their lives. The FCC, of course, said that any man who wanted to go into an area with only 25,000 people, such a sparse population, deserved to get a licence to serve northwest Washington. Mr. Jones was given his licence to serve that community, which was, essentially, at that time a semi-rural community. But Mr. Jones had bigger fish to fry. Remember, Mr. Jones was only a few miles from Vancouver.

Senator Grosart: And the FCC knew nothing about it! Who are you kidding?

Senator Perrault: He saw that the economic potential for television time sales was enormous. He got his licence and immediately, apart from a few, sparse community programs, almost all the programming was directed across the border to that rich motherlode in Vancouver.

In 1953, business was so good that Mr. Jones decided to get himself the highest powered transmitter that money could buy, which he erected on an island on the 49th parallel between Vancouver and Victoria. He then began to sell almost all his commercial time to Canadian companies faced with the lack of an adequate number of Canadian television outlets.

I do not fault Mr. Jones. He was an enterprising businessman who saw an opportunity. He was an ethical operator. He simply decided that the real key to his economic success was to broadcast to Canadians, and not to those 25,000 or 30,000 Americans who lived in his FCC-authorized area of Bellingham, Washington.

In 1955, within two years, the brand new, high-powered transmitter was in operation. He had partial CBS network affiliation and was beginning to make big money. Although the situation has changed to only a small degree in recent years, in those early days of KVOS, Mr. Jones would go to the broadcasting film people in New York and say, "You are not going to charge me very much for this film to broadcast to those few folk in northwest Washington, are you?" And they would say, "Of course not. That is your service area. You are licensed by the Federal Communications Commission to serve that area, so in view of your limited audience you are entitled to lower rates on the film that we rent to you."

Well, you know, it was very profitable for Mr. Jones—very profitable.

Senator Flynn: Shame!

Senator Perrault: Today, on the basis of the present operation of KVOS, 35 to 40 hours of network programming each week comes in from the Columbia Broadcasting System in New York at very low cost, because it is directed, technically, by CBS to the residents of northwest Washington. A far smaller number of programs are purchased from Canadian-based program suppliers, some of these program tapes being rented on the basis of audience "circulation" in the Vancouver market. The goal of making money has been realized. The real goal of this U.S.-licensed station has been the market of southern British Columbia.

Senator Flynn: That is awful.

Senator Perrault: Shortly after the establishment of its powerful new transmitter, KVOS opened a Vancouver sales office. In 1955 it established KVOS-TV (BC) Ltd., which has been in existence ever since, mining the rich commercial ore body of British Columbia advertising revenues. It has been producing some good programming. There is no question about that. They are good business people, having made a contribution to the British Columbia community. Some of their profits along the way have been invested in film production in Canada, with resultant jobs. But to all intents and purposes, KVOS-TV—and one can find its counterparts in other areas along the border—is a U.S. station licensed by the FCC to serve northwest Washington. It buys much of its programming on that basis. It is, in fact, an unlicensed Canadian station serving British Columbia, just as there are other FCC-licensed stations, licensed to serve certain U.S. regions, buying their programming on that basis and beaming their signals to Canada.

KVOS is a Canadian station without having to meet any of the Canadian content regulations, without serving in any meaningful way the Canadian interest in Canadian news and public affairs programming. With certain exceptions, such as political advertising, KVOS does not adhere to the Canadian Broadcasting Act. It does not broadcast Canadian content programming of any kind. Instead, it telecasts wall-to-wall U.S. programming, and the ratings indicate that the people of British Columbia like many of these U.S. programs.

Senator Flynn: Oh, shame!

Senator Perrault: KVOS has been in the happy position of being able to purchase the most popular commercially successful programs, the highest rated programs, without having to telecast oboe recitals from some Canadian city, whether it be Vancouver or any other city, or without producing a Canadian farm broadcast, or without having to serve the Canadian need for public discussion of economic and political events in Canada. It is wall-to-wall U.S. programming, some of it acquired at highly preferential rates.

In reality, British Columbia provides the vast majority of the income of KVOS, accounting for something in the order of 90 per cent. One report put the gross income of KVOS for its last fiscal year at $9 million from the Vancouver market, and this without any significant Canadian content. Certainly, that figure is a minimum of $7 million.

To get back to Mr. Jones, he retired a wealthy, happy man, after realizing a handsome capital gain before going on to his reward. He sold out to Wametco Enterprises Inc. of Miami, Florida. I understand that there was one Canadian company interested in buying part of the operation, but that Mr. Jones opted to sell to Wametco of Miami, which runs many of the entertainment enterprises in the south.

In terms of profit on investment, KVOS-TV became, and is today, the star in the Wametco conglomerate "crown". It is reputed to be the most profitable single entity in the Wametco empire, with by far the highest return on any investment in that empire, and the highest return on invested capital of any television station purporting to serve the Canadian television market.

These are things that must be discussed in committee.

Free of regulations governing Canadian broadcasters, Wametco of Miami, Florida, through KVOS-TV, this 100 per cent American corporation realized last year $7 million from the Canadian market, and all of this with minimum staff, no Canadian news coverage, apart from a teletype machine—not a word about anything that happens here in Parliament, although the nightly CBS American news goes into thousands of homes in British Columbia. It is estimated that the KVOS-TV net profit on investment was far ahead of anything in the Canadian industry anywhere in Canada last year. Will KVOS-TV be affected adversely should Bill C-58 pass in its present form? KVOS-TV came down to the other place the other day, and its spokesman said that they will slash their advertising rates 50 per cent. They will stay in business. They will make money. They will still realize a hefty profit. This testimony is available in the parliamentary record.

● (2040)

Senator Flynn: What do you want to do?

Senator Perrault: Significantly, while it claims to be a good corporate citizen of 20 years standing, even its Canadian sales entity, KVOS-TV BC Limited is wholly owned by KVOS Television Corporation, a Washington corporation, which in turn is wholly owned by Wametco Enterprises Inc. of Miami, a Florida corporation. In 23 years of operation, no degree of Canadian ownership has been permitted even in the British Columbia entity. It is true that Canadians sell advertising and work in film production, but a United States citizen runs the Canadian sales operation and the profits go to the American corporation. The Canadian sales office is under American direction and control. While KVOS pays Canadian income tax on its Canadian advertising sales and its revenue from film production, only 50 per cent of its Canadian advertising revenue is taxable; the other 50 per cent goes directly out of the country tax-free to KVOS Television Corporation in the State of Washington—tax-free to Canadians.

Senator Smith (Colchester): What do you mean by "tax-free"?

Senator Perrault: That no tax accrues to Canada from the portion sent back to the parent corporation.

Senator Smith (Colchester): After it pays 50 per cent?

Senator Perrault: Honourable senators must ask themselves whether freedom is really being restricted when Bill C-58 asks that the special and privileged position of border broadcasters be ended; whether this Washington State entity, for example, which has grossed an estimated $80 million in Canadian revenue from advertising sales in this country, deserves to continue in its privileged position.

Senator Grosart: Let us throw out General Motors. We had better throw out General Motors.

Senator Perrault: The honourable senator who said, "Let us throw out General Motors," is one who has done much in the realm of ideas, and he knows that there is a profound difference between a commercial enterprise like General Motors and the realm of communications which has a great deal to do with Canada being a nation. There is an essential difference.

Senator Flynn: It does not show in your speech, anyway.

Senator Grosart: I will reply later.

Senator Perrault: Now a new UHF TV licence has been issued in the Vancouver market to a group of Canadian investors. It is at this stage a risky undertaking—

Senator Flynn: Rubbish.

Senator Perrault: —as there are many other stations competing in Vancouver for the viewers' attention. Let me tell those who may not know that Canadian viewers have a choice of music on channel 2, television on channels 3, 4, 5, 6, 7, 8, 9, cable programming on channel 10, and further TV on channels 11 and 13. So there is competition. I wonder how many honourable senators would invest money in a television station under those circumstances.

Senator Grosart: KVOS did.

Senator Perrault: This company has done this. This organization is undertaking a risky enterprise. They are seeking the opportunity to place broadcasting messages before that fractionalized audience in southern British Columbia. How would any of us feel to have as major competition what is, in effect, a Canadian station not bound by Canadian content regulations, not bound by any pledge or commitment to provide extensive news and special events coverage, but committed solely to the extraction of as many dollars as possible from the southern British Columbia market? This is a station faced with this task, not only competing with CBC and CTV and the American channels which come in from Seattle, but from an unlicensed Canadian broadcaster—because that is what KVOS is—directing its signal from across the border.

How would our friends in any American city, whether it is Seattle or any other city, feel about a Canadian-owned transmitter on the outskirts of the city, an outlet not burdened by United States regulations but committed almost exclusively to the pursuit of the commercial dollar? Honourable senators, the situation would not be tolerated, as you well know. Even CKLW in Windsor, Ontario, where the converse is true, the owner of the station which sells time in the United States and broadcasts those commercial messages back to the Americans is in support of this legislation.

Senator Flynn: Maybe Senator Laird can tell us about that.

Senator Smith (Colchester): What does that mean?

Senator Perrault: It simply means that one Canadian broadcaster who makes a great deal of money selling advertising to Americans favours Bill C-58, and obviously is not concerned about the retaliation that some honourable senators say they fear.

Senator Flynn: Retaliation from the United States?

Senator Perrault: May I speak to the argument that somehow the passing of Bill C-58 will jeopardize our relations with the United States? I want to tell you about a situation that exists in the West again, an area I know something about. Outside of Seattle there is a community known as Tacoma. Tacoma, Washington, has a cable television network, and in their eminent good sense they have allocated one of their channels to programming from a Canadian television network—CTV is carried by the American cablevision company. A current dispute exists in the Seattle area. All of the American television stations in Seattle are protesting the fact that a Canadian station is available in the Seattle network area, despite the fact that only 15 per cent of Seattle area homes are served by the cable system, as against 80 per cent in the Greater Vancouver area. The Seattle stations demand the deletion of Canadian television from their local cablevision network because they say it represents unfair competition.

Do honourable senators agree that it is unfair competition? Very possibly! But do you know what the affected Canadian CTV station has said? The Canadian CTV station has written in response to an FCC inquiry, saying, "By all means, we don't believe in unfair competition. Would you please delete our station from your television cable system if you believe it is unfair, or delete any program that the cable system brings to you from Canada if you believe it constitutes unfair competition." Yet here we have honourable senators telling us how dreadful it is that the Americans are going to believe that we are unfriendly if we pass Bill C-58.

Senator Flynn: You are getting a little bit upset.

Senator Perrault: Let me give you the facts again. An American cable system carries the CTV network. The television stations in the Seattle area have demanded deletion of CTV from their cable system, or the deletion of all Canadian programs which are broadcast by a Canadian station if they are released prior to U.S. release in the Seattle-Tacoma market. They cite unfair competition as their reason for the protest to the Federal Communications Commission of the United States, and they have written Canadian authorities to protest. And I think that they are right.

Senator Smith (Colchester): Is it surprising?

Senator Perrault: They are right. That is why CTV, channel 8 in Vancouver, has stated that the station can be deleted, commercials deleted; indeed, anything necessary can be done to assure fair competition for Seattle broadcasters, who have paid for the right to televise certain programs in the Seattle market and are having their audience fractionalized because the same program is coming in by cable from Canada.

Senator Flynn: Who has paid for it?

Senator Perrault: These Seattle broadcasters have paid for their regional rights for identical programs which may be released in the Vancouver market. Again, we should be concerned about relations with our friendly neighbour to the south. The U.S. channels have made a good point in this Tacoma case.

Again, near the Mexican border another problem exists, but here it is a little different. There are a number of Mexican transmitters along the California border broadcasting powerful signals, some of them having 100,000 watts of power.

Senator Flynn: In Mexican?

Senator Perrault: The Mexican stations sell commercial time in the Los Angeles market, and broadcast in English to the Los Angeles market. At the present time the television and radio stations of southern California have launched an appeal to the FCC to have those stations closed down because of unfair competition with U.S.

broadcasters. They ask that some action be taken to restrict the actions of Mexican stations in soliciting advertising in the California market, and in the United States generally, and broadcasting the advertising back to the U.S. Canadians can certainly appreciate the dilemma of the affected American broadcasters of southern California.

● (2050)

Senator Smith (Colchester): Sure.

Senator Perrault: You know, when we discuss the pros and cons of Canada's broadcasting policies, and the desire of many Canadians to assure a strong competitive position for their broadcasting and television industry, do we really know of some of these actions taken by our neighbours to the south with respect to what they conceive to be unfair competition from their neighbours?

Senator Smith (Colchester): Who are you to speak for all Canadians, anyway?

Senator Flynn: You say the FCC has been approached, but what has it decided?

Senator Perrault: The case is under review now.

Senator Flynn: But what have they decided?

Senator Perrault: The case is under review at the present time, honourable senators. I am sure there will probably be a satisfactory solution achieved as a result of the negotiations with the Mexican broadcasters.

Senator Smith (Colchester): That is what we are saying—negotiate.

Senator Flynn: Why not do the same with United States?

Senator Perrault: When Canadian stations suggest that similar actions be taken when our interests are at stake or that certain actions be taken, such as commercial deletion from certain U.S. cable programming when Canadians have purchased Canadian television rights for telecast in Canadian markets penetrated by U.S. cable programming, there are those who suggest we may offend the United States. I want to tell my honourable friends in this chamber that a meeting was held not too many weeks ago here in Ottawa with officials of the U.S. State Department and the FCC. That meeting was held on January 13, 1976. No one on the delegation from the United States offered any serious criticism of Bill C-58. There were some questions asked about it. Canadian explanations appeared to be satisfactory to our visitors. There was and is concern, and perhaps misunderstanding, in the United States about the deletion of certain American television commercials from cable networks in Canada, but our friends in the United States have expressed no real concern about Bill C-58. Their broadcasters, as I have stated, seem to have similar problems. At the January 13 meeting, Department of Communication officials met with External Affairs officials, CRTC officials and officials of the Department of State and the FCC.

The people who should really be concerned about the practice of some U.S. border broadcasters in purchasing programming material to serve their FCC-licensed areas and then beaming their signals to populated and profitable Canadian cities are the copyright holders of this program material—those people who own the rights to it—not the stations.

The fact is that no one in this country is trying to take away American television programs. As one Canadian broadcaster has stated, "The six guns drawn at high noon at the 49th parallel can be put back in their holsters by the FCC's instructing all U.S. border stations to stop weakening the Canadian broadcasting system by booking or accepting Canadian audience-directed advertising contracts." When an American station has not bought and paid for the Canadian rights to a program it deliberately broadcasts to Canada while Canadian stations have bought the rights in Canada, in his opinion it is time we looked at which transmitter is flying the skull and crossbones. And yes, that philosophy and those ethics should apply conversely. Canadian-purchased programs should not constitute unfair competition for U.S. broadcasters or their telecasts on U.S. cable systems, just as Canadian broadcasters, when they have purchased area rights in the Maritimes, Ontario, Quebec or British Columbia, should be entitled to exclusive coverage on cable.

In 1953, when KVOS-TV was the lone television station offering its signal in the Vancouver market, today's problems did not exist. Then came channel 2, CBC Vancouver, channel 6 Victoria, and channel 8 Vancouver and their many other counterparts in the Maritimes, the Prairie Provinces and Ontario. But the West is the area I know best. The fact is that, after 23 years of its highly profitable existence, almost all of the KVOS-TV programs are available or potentially available on the dial from other stations or on the cable system.

Senator Flynn: Then what about the question of culture, if the same programs are available?

Senator Perrault: Now that Canadian owners—

Senator Flynn: You have lost your main purpose.

Senator Perrault: Don't be so uneasy about what I am saying tonight.

Senator Flynn: I am uneasy.

Senator Perrault: It may strike home, but try to accept it in good grace. Now that Canadian owners of the newly licensed television station in Vancouver must develop programming with enough public appeal to make their station strong enough to fulfil their commitment to the CRTC and to achieve economic viability, I want to remind honourable senators of what the Conservative Party, the Liberal Party and the New Democratic Party supported when the CRTC was brought into existence without a dissenting voice. They supported legislation which says that the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada. They said the programming provided by the Canadian Broadcasting System should be varied and comprehensive and should provide reasonably balanced opportunity for the expression of differing views on matters of public concern. Do the border broadcasters do that? They said that the programming provided by each broadcaster should be of high standard, using predominantly Canadian creative and other resources. That is the legislation for which all parties voted. Do the border broadcasters comply?

Senator Flynn: You just said that the Canadian stations are broadcasting the same programs as the U.S. stations. That is contrary to the bill.

Senator Perrault: Senator, don't reduce this argument to dragging in red herrings.

Senator Flynn: That is no red herring. You were the one dragging in the red herring.

Senator Perrault: If the honourable senator understands so little of Canadian broadcasting, then let me tell him that we have Canadian content regulations with respect to television and radio and that there are some highly rated programs—

Senator Flynn: —coming from the United States.

Senator Perrault: —which can be purchased from program syndication organizations in the United States and Canada and which are produced in the United States and elsewhere. These can be purchased by any station. Additionally, in the case of KVOS-TV, all of the CBS network programs which are currently on the station can be received from cablevision channels, including channel 7 in Seattle which has the full basic CBS network service. That is for your information.

Senator Flynn: Then don't use this argument.

Senator Perrault: Most of the programs which Canadians now watch on KVOS-TV would come to Vancouver viewers on the new station, if the new station is given an opportunity to purchase them for the Vancouver market—most of them. The opportunity is there. But that does not mean to say they do not have to meet the Canadian content regulations.

Honourable senators, I have just one brief additional comment. With respect to the questions I have raised tonight, I know that some of you will disagree with what I have said. I have detected, perhaps mistakenly, a note of dissent at times during my presentation.

Senator Grosart: Unbelief!

Senator Perrault: But, honourable senators, may I suggest that we all interest ourselves in this important bill, that we support it on second reading and get it into committee. I shall be pleased to join you in the committee deliberations to discuss the bill's implications for all of us. But, above all, let us do the best thing we can to assure the best interests of this country in a responsible way, bearing in mind our relationship with our good neighbours.

Senator Flynn: May I ask the leader if in committee he will take the same strong attitude as he has in his speech tonight?

Senator Sullivan: Honourable senators, may I humbly move the adjournment of the debate. There is one particular aspect of this legislation that I wish to discuss briefly tomorrow.

Senator Grosart: Hear, hear.

On motion of Senator Sullivan, debate adjourned.

The Senate adjourned during pleasure.

At 9:45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act respecting immigration security.

An Act to amend the Veterans Insurance Act and the Returned Soldiers' Insurance Act.

An Act to amend the Criminal Code and to make related amendments to the Crown Liability Act, the Immigration Act and the Parole Act.

An Act to amend the Feeds Act.

The Honourable James Jerome, Speaker of the House of Commons, then addressed the Honourable the Deputy of His Excellency the Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bills:

An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1976.

An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

To which bills I humbly request Your Honour's assent.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, March 31, 1976

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

Prayers.

OFFICIAL LANGUAGES

REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the Report of the Commissioner of Official Languages, covering the calender year 1975, pursuant to section 34(2) of the Official Languages Act, Chapter O-2, R.S.C., 1970.

CANADIAN FILM INDUSTRY

ACADEMY AWARD TO CRAWLEY FILMS LTD. OF OTTAWA

Senator McIlraith: Honourable senators, I should like to draw the attention of the Senate to the recognition given to the Canadian film industry earlier this week. I refer, of course, to the Academy Award won by Crawley Films of Ottawa for their production of the feature length documentary film, *The Man Who Skied Down Everest*. Those who shared in the production of this film have every reason to be proud of their achievement.

I know honourable senators appreciate the honour brought to Canada by this company; I know they will also appreciate what a source of encouragement this will be to the Canadian film industry.

Hon. Senators: Hear, hear!

NATIONAL ARTS CENTRE

RECEPTION FOR ARTISTS IN SPEAKER'S CHAMBERS

The Hon. the Speaker: Honourable senators, those interested in meeting a large group of English- and French-speaking artists who are performing this week at the National Arts Centre are invited to my quarters, where a reception in honour of these artists will take place this afternoon from 5 to 6 p.m.

DOCUMENTS TABLED

Senator Perrault tabled:

Report on operations under the Bretton Woods Agreement Act and the International Development Association Act for the year ended December 31, 1975, pursuant to section 7 of the first-mentioned Act, Chapter B-9, and section 5 of the latter Act, Chapter I-21, R.S.C., 1970.

Copies of a Statement and Recommendations of the National Advisory Committee on Immunizing Agents resulting from a meeting in Ottawa, March 23, 1976, issued by the Department of National Health and Welfare, together with a News release thereon.

Honourable senators, the statement of recommendations of the National Advisory Committee relates to the swine flu virus, which poses at least some dangers for this fall.

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—REPORT OF COMMITTEE

Senator Macnaughton, for Senator Hayden, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, reported that the committee had considered Bill S-33, respecting United Grain Growers Limited, and had directed that the bill be reported without amendment.

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

Senator Langlois moved that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

Motion agreed to.

INFORMATION CANADA

INQUIRY WITHDRAWN

On the Inquiry of Senator Forsey:

That he will call the attention of the Senate to two pamphlets. "The Governors General of Canada", and "The Prime Ministers of Canada", issued recently by Information Canada.

Senator Forsey: Honourable senators, I should like to ask leave to withdraw the Notice of Inquiry standing in my name because I was informed yesterday afternoon that the pamphlets in question had been withdrawn. It would therefore be a mere vaste of the Senate's time for me to catalogue their sins of omission and commission.

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

Hon. Senators: Agreed.

THE PUBLIC SERVICE

BANK'S REFUSAL TO CASH GOVERNMENT PAY CHEQUES—SUPPLEMENTARY QUESTION

Senator Flynn: Honourable senators, in view of the discussion we had yesterday about the refusal of a bank or banks to cash certain government cheques, and in view of the statement made in the other place by the President of the Treasury Board in the following terms:

If the cheques are dated prior to April 1, the cheques will be honoured; if they are dated after April 1, they

would have to wait for the Senate to pass interim supply.

may I ask the leader of the Government if he would, first, confirm the statement of the President of the Treasury Board and, secondly, if he would agree that if the Senate had passed Bill C-91 today there would have been no adverse effects.

Senator Perrault: Honourable senators, certainly every effort will be made to ascertain the facts, and the matter will be duly reported back to the Senate.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Joseph A. Sullivan: Honourable senators, a prime reason that I am on my feet this afternoon to comment on this piece of legislation is that there is a publication which is vital to the interests of the medical profession in Canada, namely, *MD of Canada*. I speak as one who has been intimately associated with that publication from the time I started as a consultant, and as a personal friend of the founder and publisher, Felix Marti-Ibanez, that most distinguished of medical historians, recognized throughout the world. This publication comes to the medical profession of this country free of charge, and I add that there is not a month goes by that one of his great writings does not appear.

It is rather strange to me that this periodical was so totally overlooked in the other place, as was its importance to Canada and to the medical profession, since it is accepted so widely throughout the world.

Having said that and before I go into further detail, let me say that I am going to be brief. We certainly will not have the situation that we had last night.

Honourable senators, when studying any piece of legislation, one of the most important matters to consider is who is affected by the legislation? When this bill first saw the light of day it was referred to generally, and aptly so, as the *Time-Reader's Digest* bill. It was obvious even then from the nature of the legislation and from the statements being made even by various ministers of the crown with regard to Canadian ownership and content that the government was out to get *Time* and *Reader's Digest*. Force *Time* and *Reader's Digest* out, the government seemed to think, and the universe of the Canadian periodical industry will be permitted to unfold as it should.

Personally, I have never been able to convince myself that that sort of protectionism is healthy for any kind of industry. I still believe in the therapeutic value of competition. But I do not want to go into that just yet.

● (1410)

The aim of the government, when it first introduced this bill, was to oust *Time* and *Reader's Digest*. They attempted to cover up their intent by allowing the legislation to affect a few other smaller magazines, but the main aim, without question, was to do away with the special status being accorded *Time* and *Reader's Digest*. Well, where are we now? *Time* has left the country and, regardless of what we do with this bill, *Time* will certainly not risk returning to Canada to set up shop anew. On the other hand, an accommodation was reached with *Reader's Digest*. The government came to realize that it would be politically unwise to force out *Reader's Digest*. That periodical provides a lot of jobs in Canada, especially in Quebec. Also, it has a very loyal readership, particularly in Quebec, where its French-language edition is without peer. Therefore, so-called concern for the preservation of our cultural identity gave way to political expediency. A way was found to allow *Reader's Digest* to remain in Canada because the government was made to feel the heat.

But now, what about the smaller magazines? What about those which were included in this mess in order that the government not look as though it were witch-hunting? Does the government really intend to go on and persecute these small magazines whose only real offence is that they don't have as large a following as *Time* and *Reader's Digest*? With *Time* and *Reader's Digest* taken care of, only vanity and a foolish desire to maintain a semblance of objectivity would drive this government to insist upon the bill presently before us.

Take, for example, the case of *MD of Canada*. What possible justification is there for bringing to bear upon it the full force of this proposed legislation? Perhaps, if I were to give you a bit of background on *MD of Canada*, honourable senators, you might come to realize that we are about to do something here which is unnecessary, unfair and unenlightened.

In 1960 I made the personal acquaintance of the founder and editor of that magazine. From that time on we have kept close correspondence. There is no question but that in the history of medicine he will go down as one of the great medical historians of all time, from the days of Hippocrates down to Banting and Best. His essays are a masterpiece in English prose. He was fluent in Islamic, Arabic, a certain dialect of Chinese, English, French and German. Of Spanish descent, he first arrived in New York in 1960. Senator Connolly will recall that a number of years ago, when he was Leader of the Government in the Senate, he very kindly entertained for me and Senator Bourget at dinner one of the most distinguished medical men of England, the late Sir Terence Cawthorne. He was chairman of the History of Medicine Branch of the Royal Society. A short time later he invited me over to speak before that particular branch of the Royal Society. I spoke on the subject of Bell's Palsy, which is paralysis of the face, and a disease on which I had done a great deal of experimental research and surgical work. After I had presented my paper before that society I received a most lovely and congratulatory letter from the former editor and founder-in-chief of this magazine. I have it today. In addition, he sent me a beautifully bound copy in colour of one of his most famous treatises and essays, *The Epic of Medicine*. I will show that, I trust, at the meeting of the Standing Senate Committee on Banking, Trade and Commerce, if the bill is referred to that committee.

However, I wish to say that I cannot understand for the life of me why this great scientific publication, which has on its editorial board in Canada today some of the most outstanding scientists, was allowed to go by the wayside.

Let me name a few of them: Paul P. David, Director of the Montreal Heart Institute; Jacques Genest, Professor and Director, Clinical Research, Institute of Montreal; Jean-Baptiste Jobin, Director of Clinical Teaching, Faculty of Medicine, Laval University; J. Jacques Lussier, Dean, Faculty of Medicine, University of Ottawa; and last, but not least, Hans Selye. Not to have any strange ideas, there were a few English-speaking members of the profession also on that board.

So I will make a plea. As a medical man who has been vitally interested in medicine, I find these essays that come out every month much more profitable in the learning process than sitting before the television or reading *Time* or *Reader's Digest*. These are classics in themselves, they are an education in themselves, and I hope the Senate, in its wisdom, will amend the bill so that this Canadian publication can remain in Canada.

Senator Buckwold: Will the honourable senator allow a question? He concluded his remarks by saying that he hopes this Canadian publication can remain in Canada. Would he explain that a little further? If it is a Canadian publication, why is there a problem created?

Senator Flynn: Read the bill.

Senator Sullivan: It is a Canadian publication. Articles that have appeared in it have been written by exceptional men of science in Canada. The fact that it is published in this country does not prevent it from receiving articles from men of science throughout the world. I just do not understand why it has been included in the legislation. That is all. I cannot understand it.

Senator Buckwold: I am not objecting. I am looking for information. I do not know anything about that magazine. For example, is it owned by Canadians?

Senator Flynn: It is a Canadian corporation, but U.S. controlled.

Senator Buckwold: Controlled by Americans?

Senator Flynn: Yes.

Senator Buckwold: Does its content meet the standard of the number of articles produced in Canada?

Senator Sullivan: Of what importance is that?

Senator Flynn: No.

Senator Buckwold: I have one last question: How did it get the exemption during the time of *Reader's Digest's* exemption? How did that happen?

Senator Flynn: Because it was in the same class for tax purposes.

Senator Sullivan: It is in a different class as a magazine.

Senator Flynn: You could probably ask that of the sponsor. He is supposed to know all the answers.

Senator Sullivan: I might say, Senator Buckwold, that the last editorial, in the March edition of this publication, by the late Felix Marti-Ibañez, was entitled "Writers Under the Light of Psychiatry." I only wish I had one of his articles that I read some years ago—"Lawyers Under the Light of Psychiatry."

Senator Flynn: I move the adjournment of the debate.

Senator Perrault: Oh!

Senator Flynn: Would you rather listen to me again today?

Senator Perrault: You spoke yesterday.

Senator Flynn: Yes.

Hon. Norman McL. Paterson: Honourable senators, I should like to speak to this bill, if I am not too late.

Senator Flynn: I will yield with pleasure, Senator Paterson.

Senator Paterson: Owing to my disability I have difficulty in reading, and I am greatly indebted to *Reader's Digest*. For several years they have furnished me with phonograph records of their magazine, and they do that for every person who has faulty eyesight. This service is not exactly free, but it is provided absolutely at cost. It first cost about $28 a year, and it is now down to $11 a year. I have the pleasure of subscribing for other people who cannot afford it. It is a great help to anyone with bad eyesight. That is one thing that I wanted to say on behalf of *Reader's Digest*.

There is also something else on my mind—something that I have spoken about before in the chamber. It goes back quite a long time. We are indebted for our high standard of living to outside investment. According to Bell Canada, the number of telephones used in Canada indicates that this country has the highest standard of living in the world. Bell Canada, at one time, was largely owned by AT&T—American Telephone & Telegraph Company. Canadian ownership was achieved as a result of share-by-share purchase by Canadians.

● (1420)

Canadian Pacific, until not so long ago, was financed by foreign capital, the result being that it was foreign owned. It is now largely owned by Canadians. However, the amount of trade in Canadian Pacific shares indicates that it might easily, once again, be foreign controlled. It might well be that a great amount of Arabian money is going into Canadian Pacific. No one will know who the big shareholders are until the shares are registered.

While I am on my feet, I want to repeat something I said in this chamber on a previous occasion. Canada became a nation in 1867. For the next 75 years, nothing was done to develop the great ranges of iron ore which are to be found along the lower St. Lawrence. Then Jules Timmins, of Hollinger Mines, got hold of the M.A. Hanna Company of Cleveland, which put, initially, $100,000 into surveys of the area. It now has over $1 billion invested in the iron ore business in Canada.

Next, U.S. Steel came along and developed Port Cartier, deepening it and building railroads. It has now spent very close to $750 million on its development, and is taking great loads of iron ore out of Canada. It employs a great many people in Quebec. We are very glad to have that investment. Those same ranges are also supplying a great deal of ore for Canadian furnaces.

Let me now speak of Colonel McCormick. Along with the late Senator Joe Bench, I was sent over to see Colonel McCormick's development at Welland some years ago. During the latter part of World War II, he converted his Welland plant to rubber production from wood waste.

Alcohol was produced in the process. Joe decided it was time we had a drink. There were some reporters present, and before trying it I wanted to see if they would go blind. As it turned out, they did not. Joe then said it was time to have another one. No one went blind. The alcohol was pure, as clear as water. Colonel McCormick went on with his developments—a great power plant at Baie Comeau, and a great papermill.

By the way, Colonel McCormick was at that time owner of the Chicago *Tribune*, which is where the money came from. Then Cargill Grain Company of Minneapolis built a 12 million bushel elevator at Baie Comeau, all of the capital again being American.

Moving west, I used to own an elevator at a place called Esterhazy in Saskatchewan. Near Esterhazy an American mining company started to dig for potash. They went down until they got to the Blairmore sands, at which point there was no way of shoring the walls. Representatives of the company went to Germany and spent $40 million extra on learning how to shore those sands. It was done, as I understand, by means of cast iron plates bolted in place as they went down. That was the beginning of the potash industry. I do not know how much money they had to put in the venture before they got anything out of it. They must have had an enormous number of agencies to sell the potash. If Saskatchewan goes into that industry they will have to use the American market in which to sell potash, but that is their business. Potash is a very difficult material to get because it is so deep in the ground. The Blairmore sands are at least 4,000 feet down, and you have to go considerably below that to get to it.

I will not go on for any longer, because I have told you enough in a very short time about what we owe the United States. Our standard of living was raised by their investments, including their successful investments in our provinces. They have never had cause to regret their investment in Canada, and I hope they never will. But we should never forget what we owe that great neighbour to the south.

Senator Flynn: Honourable senators, if no one else wishes to speak at this time, I move the adjournment of the debate. I do not think we can conclude it today, because I am quite sure that the rebuttal of the sponsor of the bill (Senator Davey) would have to be very long.

On motion of Senator Flynn, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, April 1, 1976

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

Prayers.

THE LATE HONOURABLE A. K. HUGESSEN

TRIBUTE

Hon. John J. Connolly: Honourable senators, before we proceed with routine matters this afternoon, I should like to inform the Senate that the Honourable A. K. Hugessen died in Bermuda on the evening of March 30 in his 85th year.

Senator Hugessen resigned from the Senate towards the end of 1966, after having served here some 30 years. An account of his parliamentary career is, of course, in the Senate records. It was summarized, shortly after his retirement, in Senate *Hansard* of February 1, 1967. At that time not only was an account given of the highlights of his great career, but tributes were paid to him and his work by Senator Grattan O'Leary, Senator Salter A. Hayden, Senator George White and Senator Ross Macdonald.

I think it can be said that the Honourable Adrian K. Hugessen was a great gentleman, and the most modest of men. It can also be said of him that he was a great lawyer, in which capacity he was associated with the eminent Montreal legal firm, as I knew it first, of Lafleur and MacDougall. I think, however, that it is as a parliamentarian that honourable senators would remember him best. He was one of the greatest parliamentarians of our time, and his whole career in Parliament was enacted in this house. He had a felicity and economy of language that was remarkable. He also had a capacity, amounting almost to genius, of going to the heart of every bill, and he had the ability to simplify the complex and make it understandable.

He made many great speeches here, but this is not the time to refer to all of them, because this has already been done. But there is one to which I should like to refer for a moment. It was made in 1949 when a bill before Parliament proposed the abolition of appeals from Canada to the Privy Council. He sponsored it. I suppose it could be said that Senator Hugessen took second place to no one in his appreciation of the great court which was the Privy Council at that time. And he came by this appreciation honestly. He had been born in England. His father, who was later Lord Brabourne, had been a member of the British House of Commons, and so too had his grandfather. It has even been suggested to me by a friend who knew him well that perhaps his grandfather and father sat in the British House at the same time. They were Gladstonian Liberals.

There is a story to the effect that his father, though perhaps it was his grandfather, entertained the Canadian delegation, including Sir John A. Macdonald and others, when they went to the United Kingdom to arrange for the enactment of the British North America Act. But Senator Hugessen, with this background, believed that the time had come to abolish appeals to the Privy Council, and he put it on very understandable grounds. He felt that Canada's legal establishment, after a century of work, had become stabilized. He also felt that the Canadian judicial establishment had achieved a high degree of sophistication, expertise and maturity. He felt it was able to stand upon its own feet. Honourable senators, there was prescience not only in this speech but in the policy that prompted it. It was another stepping-stone on the long path of Canadian constitutional development.

Senator Hugessen, I think it can be said without any qualification, was an ornament to the halls of this Parliament. He was one of its most industrious and illustrious members. He was also one of the strongest bulwarks upon which our Canadian parliamentary institutions are built.

Hon. Senators: Hear, hear!

● (1410)

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Public Service Staff Relations Board for the fiscal year ended March 31, 1975, pursuant to section 115 of the Public Service Staff Relations Act, Chapter P-35, R.S.C., 1970.

Report of Statistics Canada for the fiscal year ended March 31, 1975, pursuant to section 4(3) of the Statistics Act, Chapter 15, Statutes of Canada, 1970-71-72.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move, seconded by Senator Perrault, that when the Senate adjourns today it do stand adjourned until Monday, April 5, 1976, at 8 o'clock in the evening.

In giving you the customary forecast of what we can expect for the coming week, I shall deal first with the committees.

On Tuesday at 9.30 a.m. the Standing Senate Committee on National Finance will meet to consider its draft report on the Manpower Division of the Department of Manpower and Immigration. This meeting will be *in camera*. The Standing Senate Committee on Legal and Constitutional Affairs has scheduled two meetings on Tuesday, at 10.30 a.m. and 2.30 p.m., on the subject matter of Bill C-83, for the better protection of Canadian society against perpetrators of violent and other crimes. The Standing Senate Committee on Foreign Affairs will meet at 3.30 p.m. to continue its study of Canada-United States relations, and the Standing Joint Committee on Regulations and other Statutory Instruments has been called for 8.30 p.m.

On Wednesday the Standing Senate Committee on Banking, Trade and Commerce has called a meeting for 9.30 a.m. on the Canadian textile industry. Should Bill C-58, to amend the Income Tax Act, have been referred, the committee will also commence its examination of that bill. The Special Senate Committee on Science Policy will meet when the Senate rises on Wednesday afternoon.

On Thursday the Foreign Affairs Committee will hold another meeting on Canada-United States relations at 9.30 a.m., the Special Joint Committee on the National Capital Region will meet at 11.00 a.m., and also on Thursday at the same hour there will be a meeting of the Standing Joint Committee on Regulations and other Statutory Instruments.

In the Senate we will continue with the second reading debate on Bill C-58, and other items on the Order Paper. It is possible that we will have another bill from the other place by Monday evening.

Senator Flynn: May I ask the deputy leader what bill he expects from the other place? I understood he said only one.

Senator Langlois: Only one, yes. It is Bill C-92, to provide for compensation for former prisoners of war and their dependants and to amend certain other statutes in consequence thereof.

Senator Flynn: Is that the only bill that we can expect before the Easter recess? Would the deputy leader also inform the Senate if any date has been set for that recess?

Senator Langlois: The date for the Easter recess, I believe, was announced by the Leader of the Government a week or so ago. It is intended, tentatively, to recess from April 14 to April 26 or 27. As far as the legislation which may be passed in the other place before the Easter recess is concerned, the only other bill that I expect could come to this place, which I doubt, is Bill C-83. We have been informed—I heard about it through the radio and the press—that an allocation of time motion will be put today. The bill will likely be referred to committee some time next week. I have serious doubts whether it can reach us before Easter, but it will be soon after Easter if it does not come to us before that date.

Senator Flynn: I wanted to ensure that it is not apparent that we will have several bills to deal with in the coming weeks. It seems to me that the work of the Senate will be concentrated in committees and that there will not be too much to do in the Senate itself.

Senator Langlois: There is also the possibility that the Maritime Code, which has reached the third reading stage in the other place, could come to us at any time.

Motion agreed to.

THE PUBLIC SERVICE

BANK'S REFUSAL TO CASH GOVERNMENT PAY CHEQUES—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators, the distinguished Leader of the Opposition asked a question on March 31.

Senator Flynn: You're making me blush.

[Senator Langlois.]

Senator Perrault: He said:

> May I ask the Leader of the Government if he would, first, confirm the statement of the President of the Treasury Board and, secondly, if he would agree that if the Senate had passed Bill C-91 today there would have been no adverse effects.

This question has been diligently researched and I have the following reply:

In answer to the first part of the question, I should like to confirm the statement that the President of the Treasury Board made in the other place that:

> If the cheques are dated prior to April 1, the cheques will be honoured; if they are dated after April 1, they would have to wait for the Senate to pass interim supply.

The pay cycle for House of Commons personnel is different from the pay cycle of most public servants. The House of Commons staff are paid twice a month and they received their second pay cheque for March over the three-day period ending Wednesday, March 31. Since these cheques were dated in March, they were a proper charge to the fiscal year 1975-76 for which funds were already voted.

The pay cycle for most public servants is every two weeks and the pay which caused concern was for the two-week period ending Friday, April 2, 1976. It has been a long-standing practice for employees to receive their pay cheques over a three-day period in order to ease the burden on the banking facilities. Therefore, in the normal course of events, public servants would receive their pay cheques Wednesday, March 31, Thursday, April 1, and Friday, April 2, and the banks would accept the cheques on these days even though they were dated April 2. Because these cheques are dated April 2, they are a charge to 1976-77.

If the Senate had not passed Bill C-91 until Wednesday, several thousand employees, normally paid on that day, would have had to wait until Thursday. Therefore, in answer to the second part of the question by the Leader of the Opposition, it cannot be agreed on the part of the government that the one-day delay would not have had adverse effects.

Senator Flynn: Then, of course, in order to avoid an adverse effect, it would be a much better practice to have interim supply come to this place at least one week before the fatal day.

Senator Perrault: Honourable senators, I want to say that I am in complete agreement with the sentiment expressed by the Leader of the Opposition. That point has been made vigorously this week, in the appropriate places.

Senator Grosart: Did I understand the Leader of the Government to say that a cheque dated April 2 would normally be cashed by the banks on March 31?

Senator Perrault: It would be accepted.

Senator Grosart: The obvious question is: Has anyone told the banks? The situation we are talking about is one where the banks, we are told, refused to cash the cheques. Is there some breakdown in communication between the government and the banks in this matter?

Senator Langlois: Honourable senators, if I may be allowed to comment on Senator Grosart's question: If there was any confusion in this respect, it was because we were

faced with two sets of circumstances. First, there were these instructions issued by the banks to their branches—or, rather, one bank, and I think there was some over-reaction there—to the effect that none of the cheques could be cashed without any specification as to the date of the cheque before the interim supply bill was passed.

This was the first set of circumstances. Dealing with the second set of circumstances, as I explained yesterday, the pay dates for most public servants span a period of three days, two of which were in the fiscal year just ended and one in the new fiscal year. For that reason, these pay cheques dated after April 1 could not be cashed before the interim supply bill received royal assent. Those were the circumstances which created—perhaps quite understandably—some of the confusion which arose.

I think that answers the first part of my honourable friend's question. As to who issued those instructions, I think it was made clear yesterday that when these cheques were sent to the various departmental distribution centres by Treasury Board, they were accompanied with instructions that they not be issued until the interim supply bill was passed. Somehow, some of those cheques were issued, contrary to the instructions given the distribution centres, and at least one bank refused to cash those cheques when they were presented for payment. In refusing to cash the pay cheques, the bank in question over-reacted to the instructions that no government cheques dated after April 1 should be cashed until the interim supply bill was passed and the bank applied this to all government pay cheques irrespective of their dates. That is the situation with which we were faced. I do not think I can add anything further.

Senator Flynn: I am glad to have the remarks of the deputy leader on the record. In fact, the banks usually cash these pay cheques two days before they are due. Normally, a cheque cannot be cashed before its due date.

I am glad to have those facts on the record, because there was some pressure exercised on the Senate in this situation. I again stress that this is something that should be avoided in the future.

Senator Langlois: These instructions applied to cheques dated April 2 only.

Senator Flynn: No, but some of those cheques had been distributed. In any event, it is not relevant.

Senator Langlois: That clears up the situation, I hope.

PRIVATE BILL

UNITED GRAIN GROWERS LIMITED—THIRD READING

Hon. Gildas L. Molgat moved third reading of Bill S-33, respecting United Grain Growers Limited.

He said: Honourable senators, we had a complete discussion of Bill S-33 in committee. For that reason I do not propose at this time to add anything further, except to say that if there are any further questions on the bill I will attempt to answer them.

Motion agreed to and bill read third time and passed.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for the second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Honourable senators, unless some other senator wishes to speak at this time, I propose to have this order stand.

Order stands.

● (1420)

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—DEBATE CONTINUED

The Senate resumed from Tuesday, March 2, the debate on the inquiry of Senator Michaud calling the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.

Hon. Daniel Riley: Honourable senators, I did not expect to speak today. I had expected to speak on March 17, but Senator Flynn made a remark which made me a little shy about speaking on that occasion. When we met that night in solemn conclave in the West Block, the reason was apparent.

Today I expected Senator Flynn to speak on Bill C-58. Again I did not expect to speak, because how could a rowboat wallow in the wake of a leviathan of the deep, following an orator like Senator Flynn? When I thought it over a little, I realized that he did not speak today because—

[*Translation*]

he did not want to be an "April's fool".

[*English*]

Senator Flynn: Do you want me to tell you the reason? It was because I wanted you to be the first speaker today. I knew you would be entertaining.

Senator Riley: Honourable senators, I want to speak to this inquiry, particularly because its subject matter is of great interest to me. When, as a young boy, I was first projected by my guardian into the northeastern section of New Brunswick, I had not heard much about the Acadian people, but in my early years I was educated by them and learned to love them deeply. I learned their culture, I learned something of their language, and I made many friends.

When Senator Michaud originated this inquiry some time ago, it caused me to reflect upon the many years I spent among these people in northeastern New Brunswick. When he spoke of the letter that was addressed to the Premier of New Brunswick, copies of which were sent to the Prime Minister and other important people, I was reminded of the plight of these people in our province.

Senator Michaud spoke well. He spoke mainly of agriculture, because he comes from the part that we call the eastern section of New Brunswick, where there is great

stress on agriculture and where the people gain their livelihood mainly by cultivating small farms.

As a boy and as a young man, I began to study something of the people of northeastern New Brunswick, and I found that for generations they were exploited to the point where they were denied access to the type of education to which they were entitled. They were exploited by the merchants and by the people who processed fish. There was some investigative reporting done by a now defunct newspaper in New Brunswick, which established that the people of northeastern New Brunswick, particularly in the fisheries, were beset and assailed by poverty and frustration.

Boys did not have an opportunity for schooling because, when they were still very young, they were encouraged by the fish packing establishments to go out with their fathers and fish in the Northumberland Strait and the Bay of Chaleur. They were encouraged to leave school at an early age, and were sold nets which they could use in their fathers' boats. As they became older they were encouraged to buy boats themselves. As a consequence, during most of their lives they were indebted to the merchants, and the fish processors who, it should be noted, usually were the owners of the general stores in the area. Thus these people were enmeshed in debt, with usually a raft of chattel mortgages to discharge—on the first boat, on the second boat and then on the third boat.

So when I say that the people of the North Shore of New Brunswick and the northeastern section of New Brunswick were exploited, and beset and assailed by poverty and frustration, I in no way exaggerate. Payment for their catches of fish was usually made in wooden tokens which had to be cashed at the general store. You can imagine, therefore, in what kind of environment these people grew up. You can imagine the frustrations they experienced one generation after another.

Honourable senators, I was quite moved when Senator Fournier spoke so eloquently about the fisheries and the rich resources of this area. Coincidentally, on the day Senator Fournier spoke, an association called the New Brunswick Psychological Association addressed a letter to the Premier of the Province of New Brunswick, with a copy to the Prime Minister of Canada. That association is comprised of about 88 practising psychologists from every part of New Brunswick. I mention that merely to indicate that the serious problem being experienced in New Brunswick at the present time is not simply insular in nature. It is not merely a cry from the people of the northeastern part of the province; it is a general cry from all of the people of New Brunswick.

In their letter of March 2, 1976, The New Brunswick Psychological Association makes reference to a brief presented by the Diocese of Bathurst, which was referred to first by Senator Michaud, and then by Senator Fournier (Restigouche-Gloucester) on March 2 last, and appended to *Hansard* of March 4, and one paragraph in their letter states:

> The Reverend Wade in his brief stated that the "migration of labourers towards the southern sectors of the province is not only detrimental to family life, but it also has ill effects on their culture and language". Recent estimates from the Department of Social Services indicates that in one office of the department alone for the month of December 7,800 man working days were lost because no place of employment was available for these people who consequently had to rely on subsidy by the Government of New Brunswick.

That is, welfare.

[Senator Riley.]

● (1430)

When Senator Fournier (Restigouche-Gloucester) spoke he mentioned that in the northeastern part of the province, in the counties of Gloucester, Northumberland and Restigouche, and in Campbellton and Bathurst, which are within the area, there was an unemployment rate of 24.2 per cent. That is about the highest in the country. However, the unemployment figures that are published by the responsible department do not include the people on welfare or seasonal workers, and if we add these to the unemployment I have referred to that exists in the northeastern part of New Brunswick, the percentage conceivably could be as high as 50 per cent. I say that this is a matter of national concern.

When we take into account the particular figures relevant to that section of the province, of northern New Brunswick, we have to realize that there are urban areas which have a much lower rate of unemployment than the rural and fishing areas, and when we state that there is an unemployment rate of something like 26 per cent—an increase of over 2 per cent from the time Senator Fournier (Restigouche-Gloucester) spoke—we have to realize that in the county of Restigouche we have roughly 4,000 people on welfare; in the county of Gloucester—mainly on the Caraquet coast, as we call it—roughly 6,000; and in Northumberland county, something like 6,000. The population of Restigouche county is about 45,000; that of Northumberland county, about 55,000; and the population of Gloucester county, about 80,000.

I repeat, this is a matter of national concern, and I refer again to the letter which Senator Michaud mentioned when he opened the debate on his inquiry, and to the recommendations that are made in it. The reason why the clergy took the action they did in this respect was the deep alarm they felt about the situation, and their conviction that something must be done, and done immediately, for these people.

I have referred to the statements of the psychologists. As I said, these are psychologists from all over the province. They say:

> We believe that conditions such as these and the accelerated rate of government subsidy through welfare payments are only a minor part of the general feeling of helplessness, powerlessness and anomie experienced by a large proportion of North Eastern New Brunswick residents. The prevalent characteristic of this condition of anomie appears to be a lack of control over one's own destiny.

They are addressing the Premier, of course, and I must stress that I am not criticizing the Premier in any way, because he is concerned, too. They speak of the work done by Rotter, who is an authority on psychology.

> [Rotter] concludes that an individual who believes that he is not in control of his environment, specifically in terms of his economic status:

1. becomes less alert to those aspects of the environment which provide useful information for his future well-being.

2. cannot take steps to improve his environmental conditions.

3. places less value and sees fewer rewards associated to skill and achievement and becomes less concerned with his ability.

4. becomes less resistant to subtle attempts to manipulate and influence him.

This has gone on for generations, honourable senators, and I say that at this time we have to make a concentrated effort at all levels of government in order to relieve the people of northeast New Brunswick of the terrible frustrations which they are experiencing. The psychologists in their letter go on as follows:

Hand in hand with upgrading the economic plight of the North East is the responsibility of government—

And I suggest it must be government at every level.

—to provide avenues for social awareness. We recognize that existing communications networks such as Television Service is both inadequate and unreliable. Although the C.I.C. has improved considerably the school facilities in many locations, we would urge you to adopt a more far-sighted program regarding education. We remind you, as J. McV. Hunt has clearly shown, that the children of the poor first arrive at the public school with their various defects primarily because they have not had the opportunities required to master the linguistic and numeric skills basic to normal performance in intellectual tasks, or the motivational systems required for attention to teacher's speech, or the habits of conduct required for teacher control and approval. We press upon you the urgency of compensatory education in day care program, kindergarten programs and throughout the public school careers of these children. To ignore this situation has a "snow-balling" effect which becomes more and more difficult to adjust.

Then the psychologists make recommendations, and I quote again as follows:

Our knowledge of and experiences with the situation in the North East of New Brunswick leads us to make the following recommendations to you—

I pause here to point out that the president of the New Brunswick Psychological Association is a director of a mental health clinic in Bathurst, right in the heart of the area. I have talked to this gentleman, and he is genuinely concerned. He takes it so seriously, as do the other members of the association, that they are pleading—indeed, I might say that they are screaming—for action to assist, to upgrade, the people of the northeastern part of New Brunswick. Among the recommendations, there is the following:

● (1440)

That you take steps to prevent the occurrence of events over which persons in the North East have no control. Specifically in the reduction of unemployment, retraining and the need for relocation of workers.

When they talk about the "relocation of workers," they do mean relocation to the more industrialized centres of the province of New Brunswick, to the large urban areas. It can be quite understood that when you uproot these people, or when you uproot the father of a family, the consequences can be quite serious, because most of them have large families. They own their own homes, and they take great pride in them. So if they have to go away and spend, say, two weeks in the industrial centres of the province—for example, in the city of Saint John—they begin to lose their culture, and they begin to lose contact with their families, and unfortunately they tend to lose their language. In my view, as a confirmed Canadian who believes in the two cultures and the two languages of Canada, I am aghast sometimes when children come into my home, children of people who have been forced to migrate from northeastern New Brunswick, and say no when I ask them if they speak French. They say that their fathers and mothers speak French at home, but "we are shy about speaking French amongst ourselves in school or on the streets because we feel that people might laugh at us; we understand our parents and their language, but we answer them in English."

Honourable senators, if ever a culture should be fostered, nurtured and preserved, it is the culture and the language of the Acadian people, because we know what has been their history. We know of the way that they were exploited, and we know of the privations that they have suffered down through the generations. I feel it is a matter of national responsibility—I know it is provincial to some extent, but it is national in scope—to take steps to preserve this if we really believe in the two languages and the two cultures of the founding people of this nation.

They must not be uprooted. Efforts must be made to upgrade their environment. Their culture is a quaint one; it is different from what we normally call the French-Canadian culture. It is the Acadian culture, and in some respects you might say that they speak the Acadian language. I say that, honourable senators, because the Acadian people originated in Brittany in France, and they have preserved their expressions, idioms and language generally more so than have the other French Canadians. You will hear expressions among the people who speak pure Acadian that you will never hear in the province of Quebec. It is old-world French. They have customs that are not the same as those of other French Canadians. They have, as I have said before, their own history. They wish to preserve that history, and they want to continue to live in their own environment. So we, as a nation—and particularly those of us who are here in Ottawa, and the government—should make sure that they do.

There are many things that can be done in the northern part of the province. When the Prime Minister recently replied to the clergy of the diocese of Bathurst, he pointed out that the federal government was aware of and deeply concerned about the problems of regional disparity. He said that the federal government is waging its own war against regional disparities. He pointed out that we had gained some benefits in the northeastern section of New Brunswick. I am not from that section, honourable senators, but in speaking as I do I wish to acknowledge a great

debt of gratitude, personal gratitude, to the Acadian people of my province.

The Prime Minister said that we have gained greatly from DREE, from ARDA and from FRED, and pointed out that negotiations were proceeding at the present time to reach a sub-agreement with the Province of New Brunswick in order to cooperate with them in upgrading the conditions which exist there, and improving them. He also said that the federal government has commenced negotiations with the province towards extending, beyond the close-off date, the development effort in New Brunswick, that public meetings will be held and consultations invited in order to try to develop a plan under this sub-agreement.

But there are all sorts of things that can be done, and I am going to concentrate for a moment on Gloucester county because I feel that it is the focal point of any effort to be made in improving conditions in this area—bearing in mind again that in some sections of this particular region unemployment runs to 50 per cent, and bearing in mind further that these people are not indolent. They are ambitious for their children, even though they continue to experience these terrible frustrations. They want their children to have opportunities of employment; they want them to have opportunities of gaining control of their own environment; and they want them, most of all, to be able to attain the level of their destiny.

Honourable senators, there are many constructive suggestions that I could make. One which comes up frequently in these briefs and representations to government at all levels is the development of an adequate road system through the early completion of Route 11, as we call it. Realizing that there has always been the question of which came first, the chicken or the egg, there is the question of what should come first in northeast New Brunswick. What comes first is the accelerated completion of the road known there as Route 11. It should be upgraded in such a way as to provide proper access to the Caraquet coast in order that they may, first of all, develop their tourist industry. The Province of New Brunswick intends to build an Acadian village which, as a matter of fact, is now under construction and development. That will be a great thing for tourism, and will attract people to learn about, and live as tourists among, the Acadian people of the northeastern part of our province. It may not be finished until 1977, but when it is completed I doubt whether there will be proper access roads to it. We have an Acadian museum in the village of Caraquet. This museum is most interesting, depicting as it does the history of the Acadian people in that area.

● (1450)

But what is the good of these things? I know that the minister of tourism is concerned, and that there is a lack of funds at the provincial level. We are all aware that it is a question of priority. The Department of Regional Economic Expansion is advertising through the Community Improvement Association in New Brunswick to indicate again the seriousness of the situation in the northeast. In the body of the advertisement is a paragraph entitled "The New Approach", from which I will quote:

> Both Canada and New Brunswick have agreed to work towards a new development agreement for Northeast New Brunswick.

[Senator Riley.]

> The agreement will come under the umbrella provided by the General Development Agreement signed by Canada and the Province of New Brunswick. The principal objective of the General Development Agreement is to help close the gap in per capita incomes between New Brunswick and the national average. It also follows that income disparity must be reduced within the province.

We have a very happy situation presently in the Saint John area, where I live, but when we go from 2.7 per cent unemployment in Saint John to almost 50 per cent in Northeast New Brunswick, I am sure that honourable senators will agree with me that it is a devastating difference. The advertisement continues:

> The basic objective of a Northeast agreement should be to accelerate development in Northeast New Brunswick to improve the well-being and standard of living of residents.
>
> Since one of the most obvious indicators of disparity in the region is the unquestionably high level of unemployment, the goal becomes one of better utilization of all resources (physical and human) of the Northeast through a higher level of economic activity.

I say that the first thing to do is to give the highest priority to, and complete, such development in the province of New Brunswick. DREE is involved in this, and invites consultations and briefs from the public. I am reading from an advertisement entitled "Northeast New Brunswick," which appeared in the Saint John *Telegraph-Journal* of March 25, 1976. It is a long advertisement, and would possibly be considered by some to be an expensive one. However, the invitation reads as follows:

> If the economic gap which exists between Northeast New Brunswick and the province as a whole is to be closed, a continuing special effort is required. A part of that special effort is the proposed Northeast New Brunswick Development Sub-Agreement.

That is being negotiated now. The invitation continues:

> Obviously, income and employment differences are significant parts of the problem but what are the appropriate solutions?

The people of the province of New Brunswick are being invited to offer suggestions, but this all takes time.

I served in the government of Senator Robichaud when he was Premier of New Brunswick. I held two portfolios, and saw what he was endeavouring to do and how he did it. I did not agree that the program of equal opportunity for the people of New Brunswick should be implemented so quickly. However, he had the courage and foresight to do it, and he did it immediately. He did it quickly, irrespective of the fact that there were deficiencies which had to be corrected later. Nevertheless, he said that the people of Nigadoo must have the same educational opportunities as the people of Saint John; that the people of St-Isidore and of the backlands in Kings County, which is adjacent to Saint John, should also have the same educational opportunities as the people of Saint John and Moncton.

This was a bold new approach, and I say that with respect to developing the northeastern section of New Brunswick we must concentrate first on Route 11. We must upgrade it so that people will move into the area, and

tourists will visit. There are beautiful beaches, but not enough camping areas or trailer parks. There is nothing whatsoever beyond the Acadian village, the fishery school and the Acadian Museum, to attract tourists today, because they do not want to travel over lumpy roads. It is not only Route 11; there is a network of roads running through that whole area which must be upgraded. If special promotional efforts can be put into the tourist industry immediately, first by upgrading Route 11 to standards which will enable tourists to travel, we will then see a resurgence of interest on the part of the people from within and outside New Brunswick to visit the area. There are many beautiful sandy beaches there, and deep-sea fishing is available, together with many more inducements for tourists. This is something that can be done immediately, and it should be started immediately. The rebuilding and upgrading of Route 11, not patching it, should definitely be started this year. As the Prime Minister has pointed out, the Government of Canada has already sunk approximately $67 million into that road—with provincial participation, of course. The most important part of it is that which extends from Newcastle in Northumberland county around the Caraquet coast in Gloucester county. Until there are better roads, there will not be a very good acceleration in development. I believe that honourable senators will agree with me on that point.

● (1500)

I would urge, irrespective of this new study that was advertised on March 25 in the *Telegraph-Journal* by the Community Improvement Corporation of DREE, that a special effort be made immediately by the federal government to negotiate a settlement in respect of the construction of Route 11. If that is not done, I would not like to see—and neither would my colleagues from New Brunswick—a retarded development program that will continue until the year 2000. I therefore urge the federal government to take the initiative in respect to Route 11, and to advise the Province of New Brunswick that it is ready to make a greater contribution, provided the province participates as it should.

I am not criticizing the Government of New Brunswick, because it is beset by the problem of lack of money, and it recognizes the necessity of restraints. However, high priority is being given to multimillion dollar grants to industrial firms, for hydro and nuclear power plants, and so on. I do not know whether we in New Brunswick should have any dealings with nuclear power plants, but someone said the other day—I do not think it has been denied, although there was an attempt to deny it—that delays in the construction of the nuclear power plant at Lepreau on the south coast have cost the province something like $42 million. When I read that, I was not surprised that rates for electrical energy in New Brunswick had risen by 12 per cent. That is probably not within the ambit of the Anti-Inflation Board to probe, but the people of Northeast New Brunswick are affected when their rates for electrical energy are increased by 12 per cent.

We talk about making large grants available to industrial giants for their plant, equipment and operations. We should also consider the social and economic effects of a large grant to our road building program and to make the Caraquet coast of New Brunswick more accessible to the people of the province, and thereby give the people who are living there in poverty—there is no question but that conditions there, the unemployment and welfare, can properly be called conditions of poverty—the opportunity to hoist themselves up by their bootstraps. We should do that right away. If that can be done, then the problems posed by the letters of the priests of the Diocese of Bathurst and the New Brunswick Psychological Association can be partially met, and the development of the area will be accelerated.

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned until Monday, April 5, at 8 p.m.

THE SENATE

Monday, April 5, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

NATIONAL CAPITAL REGION

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Darling had been substitued for that of Mr. Dick and that the name of Mr. Paproski had been substituted for that of Mr. Darling on the list of members appointed to serve on the Special Joint Committee on the National Capital Region.

COMPENSATION FOR FORMER PRISONERS OF WAR BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-92, to provide for compensation for former prisoners of war and their dependants and to amend certain other statutes in consequence thereof.

Bill read first time.

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

Senator Langlois: I move, seconded by Senator Carter, that this bill be placed on the Orders of the Day for second reading on Wednesday next, April 7, 1976.

Senator Flynn: We would have been prepared to give leave to proceed tonight. You don't know when to ask for leave.

Motion agreed to.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of the Department of Industry, Trade and Commerce for the fiscal year ended March 31, 1975, pursuant to section 8 of the Department of Industry, Trade and Commerce Act, Chapter I-11, R.S.C., 1970.

Report of the Anti-dumping Tribunal for the year ended December 31, 1975, pursuant to section 32 of the Anti-dumping Act, Chapter A-15, R.S.C., 1970.

Report of the Canadian Livestock Feed Board for the crop year ended July 31, 1975, including its accounts and financial statement certified by the Auditor General for the fiscal year ended March 31, 1975, pursuant to section 22 of the Livestock Feed Assistance Act, Chapter L-9, R.S.C., 1970.

Copies of a contract between the Government of Canada and the Village of St. Quentin, New Brunswick, for the use or employment of the Royal Canadian Mounted Police, pursuant to section 20(3) of the Royal Canadian Mounted Police Act, Chapter R-9, R.S.C., 1970 (English text).

Report of the National Energy Board for the year ended December 31, 1975, pursuant to section 91 of the National Energy Board Act, Chapter N-6, R.S.C., 1970.

Copies of a letter from the Minister of Energy, Mines and Resources, dated December 22, 1975, to Mr. Charles Boulva, President of Canadif, together with an attachment entitled "Uranium Enrichment in Canada".

Copies of a Statement by the Minister of Finance to a Federal-Provincial Finance Ministers' Meeting entitled "Review and Reform: Fiscal Arrangements into the 1980s," dated April 1, 1976.

ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until tomorrow, Tuesday, April 6, 1976, at 8 o'clock in the evening.

Motion agreed to.

BANKING, TRADE AND COMMERCE

CHANGE IN COMMITTEE MEMBERSHIP

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Manning be substituted for that of the Honourable Senator Everett on the list of senators serving on the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Davey, seconded by the Honourable Senator Lang, for the second reading of the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Honourable senators, I would ask that this item stand. I am prepared to yield to anyone else who wishes to speak. I intend to speak on this subject tomorrow night.

Senator Croll: We will wait for tomorrow night.

Hon. Eugene Forsey: Honourable senators, I wonder if I might make my twopennyworth contribution to this debate at this point, if I may have leave of the Leader of the Opposition?

Senator Flynn: Not only leave, but the blessing.

Senator Forsey: I didn't say leave of the Senate; I said leave of the Leader of the Opposition. My remarks will be very brief. The first thing I want to say is that I am in favour of the general principle of this bill. It removes a tax preference and privilege which I have never been able to understand and whose removal I think is long overdue.

I am in favour of its application both to periodicals and to broadcasting. My experience on the Board of Broadcast Governors has left me with a very small amount of sympathy for the trials and tribulations of private broadcasters generally and American private broadcasters in particular. Nor am I going to waste any sympathy on the advertising people, who I think are well able to look after themselves.

I am not at all worried either about the dreadful peril in which the Americans stand as a result of this, or the irritation which it may cause in their sensitive bosoms. I think this is a matter of purely domestic policy and I can't see any reason why the Americans need take it as a dark and deadly conspiracy against their interests, or something that is going to cause any substantial damage to the people of the United States. To some very small groups of people in that country perhaps, but those groups, again, are quite well able to look after themselves, and I simply brush aside that as of no importance whatsoever, disrespectful as that may seem to some of the eminent senators who have stated the contrary view.

There are just two things that worry me about this bill. One is its application to periodicals like *MD of Canada*, on which Senator Sullivan spoke the other night. I really can't see why the existing exemption which is allowed, if I remember the act correctly, to religious and scientific and similar periodicals should not continue. It seems to me there is a special case there for special treatment. I don't mean to dwell on that because I think the Honourable Senator Sullivan the other night made the case amply and with the unequalled authority which he possesses because of his professional distinction.

The other thing that worries me is this business of—what shall I call it—the expanding, the inflating, the growing, the rising, the escalating percentage which is required, apparently—has been required, at any rate—by the Department of National Revenue for Canadian content.

I dare say that when the Honourable Senator Davey makes his final speech in this debate, he may clear up both these points. I hope he will. Perhaps he will reproach me for not having read carefully enough the debates in the other house, and in committee there, which perhaps dwelt on these subjects and might have satisfied me. I confess that I may have been delinquent in not doing so.

I searched Senator Davey's speech in this house, which I unfortunately missed hearing, with great care, and I couldn't find in that any explanation that satisfied me.

For that reason, and because the bill presents a number of features which I think need very careful consideration, and full explanation not only from the minister but from his officials, or perhaps from more than one minister and more than one set of officials, I am very glad that this bill is, as I understand, going to committee. I think it ought to go there, and I trust that it will get in committee the very careful examination which to my mind it deserves. It is possible also that by the time it comes out of committee the feeling that I have about it may be different from what it is now. Perhaps I shall discover that some of the arguments that have been made against it here will seem to me then more cogent than they seem so far.

● (2010)

That is all I want to say about this bill, honourable senators, and I think I can, for once, be congratulated on living up to my statement that I intended to be brief.

Senator Flynn: Before moving the adjournment of the debate, may I put a question to Senator Forsey? As joint chairman of the Standing Joint Committee on Regulations and other Statutory Instruments, is he worried about the proposed discretion given to the Minister of National Revenue under Bill C-58?

Senator Forsey: I am always worried, honourable senators, about discretion given to ministers. It is something that needs to be watched very carefully. I recall—at least I think I recall—that some years ago, when another party was in power, this house jumped heavily on a bill from that particular government, which would have given an expanded discretion to the Minister of National Revenue. I think that particular bill died unwept, unhonoured and unsung.

Senator Flynn: That is a very good indication of what Senator Forsey may eventually do. I move the adjournment of the debate.

On motion of Senator Flynn, debate adjourned.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—DEBATE CONTINUED

The Senate resumed from Thursday, April 1, the debate on the inquiry of the Honourable Senator Michaud calling the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.

Hon. Louis-J. Robichaud: Honourable senators, it is not my intention to make extensive remarks on this inquiry. I was impressed by a statement made just a moment ago by Senator Forsey—a statement which he made in a "Forsey-like" manner. He made a very valid point, and I, too, hope to make a very valid point in the few remarks I intend to make this evening.

At the outset of my remarks, I should like to congratulate Senator Riley on the contribution he made to this debate last week. Although an Irishman by descent, he proved himself to be great Canadian. He was raised in an area of New Brunswick which had a great many French, English and Irish. He retained his Irish heritage but accepted the French fact, for which I give him full marks. In that respect, I was most appreciative of the remarks he made in the Senate last week.

I should like to commend Senator Michaud for having introduced this inquiry.

[*Translation*]

I would like to convey my warmest congratulations to Senator Michaud for drawing the attention of the Senate

to a subject that is close to everyone's heart in New Brunswick. It is an inquiry that seems very mild when considering what goes on in the world, according to the newspapers, but such is not the case because it has a sense. Further, in his presentation, he introduced all kinds of doctrines that could be of help to a given area of the province. I was very impressed. I hope he also impressed most of the honourable senators who are here tonight.

I also appreciate the remarks made by Senator Michel Fournier, a former minister in the provincial government of New Brunswick, who was greatly concerned about the development of the area and did everything he could to reach his objective. I shall come back to that later to speak about it at greater length. I always appreciate the judgment of a valuable man such as Senator Michel Fournier, who is not very loquacious but when he speaks what he says makes good sense and is to be considered. This is one of the messages that I would like to leave to the Senate at the present time.

Hon. Senators: Hear, hear!

Senator Robichaud: When Senator Michaud's words are said to apply to a very restricted situation in New Brunswick, perhaps their meaning could be broadened a little bit to describe the economic situation of the entire province of New Brunswick.

I am here, as you are here honourable colleagues, to represent your community, your voters—not your voters right now, but those whom you represent, and I am conscious that those I represent are first of all from Madawaska, Restigouche, Gloucester, Northumberland, Kent and Westmoreland. They are not all offspring of my area, but they are the Acadian people, the French-speaking population of New Brunswick, and that fact has persisted for the past 200 years. I cannot change that. Nor can my colleagues here. For 200 years now, the situation has been the same. Regardless of the economic level, or what they have in the area, they cannot make ends meet. That is not my fault. Nor is it anyone's fault here. But it is someone's fault. It cannot be said, in 1976, that quite an important area, a good part of the country should be underprivileged because of outside economic circumstances over which we have absolutely no control. I will not accept that. I have said it several times. In fact, I have said it so often that I may have said it too often. Still, I say it again. In northeastern New Brunswick, going down, there are natural resources that should be developed, both by the provincial and the federal governments. The federal government has done all it could. I shall come back to that later on. But, I am afraid that at some point in time the provincial government may have failed. I do not have to tell you I have done my utmost for the economic cause, not only of my province but of all the Maritime provinces, the Atlantic provinces, the northeastern area. And I shall say it again if anyone dares put questions to me.

● (2020)

You hear from every quarter today that the Maritime provinces suffer from an economic inferiority complex, et cetera. When it comes to Quebec, one thinks: It is their fault; let them take care of themselves. And when it comes to Ontario, again we say: they can take care of themselves.

[Senator Robichaud.]

I now live in Ontario. I am very concerned about the economic problem of the Maritime provinces, the Atlantic provinces, and specially that of my own province of New Brunswick.

We had the mines, and Senator Fournier (Restigouche-Gloucester) gave some explanations about this. You know what is happening in the economic complex of New Brunswick when we have—I am not sure if I described correctly the geographic situation—inside a whole English-speaking complex. We have outside, along Chaleur Bay and Northumberland Strait, an Acadian complex which has been fighting for its own identity for 200 years, as Senator Riley told us last week. We have been trying for two hundred years to gain our own identity, to build our economy so that we can grow and keep our people at home. But we did not succeed in spite of what Senator Fournier (Restigouche-Gloucester) said last week to the effect that the northeastern reaches of the province have mineral deposits unique in North America. But what happens when we have mineral deposits? We have the situation that I found when I was premier. I do not mention these facts just for the sake of it; I only wish to recall what happened.

Senator Fournier (Restigouche-Gloucester), who was a minister and a member of my government, had been telling me for years: "There are in my riding thousands and thousands of tons of minerals that could be developed immediately but they do not want to do it." I was a young premier and I did not know what to do, but I followed his advice and the advice of some others. I asked those companies to develop the mines in the area, something which was necessary at the time. There were, I think, 253 million tons. I do not have the exact figure. But it was enormous. It was a foreign and not a Canadian corporation that controlled the mines. I immediately asked them to surrender their control to Canadians. I asked them to surrender it to Canadians, otherwise they would lose all their rights. We started in the northeast area, which comes under the inquiry proposed by Senator Michaud. I asked them immediately to develop the mines or else they would disappear. This is not separatism. I did not want to get separated from the rest of Canada. I wished to stay within Canada but I wanted our resources to be developed immediately for the benefit of all Acadians, of our people living in the area. Right away the foreign corporation said: "Well, we are going to surrender our rights." After all sorts of complications—there were many problems during the development— a big refinery was built; a mine was built at a cost of $210 million. The province and the northeast area benefited from it, but do you know what happened during the whole process? Those who took over from the company came to see me one day and asked if I would agree to relocate the refinery and instead of building it in Gloucester county where it was, to build it in Saint John in the south where, as it was said last week, there was an unemployment rate of 2.9 per cent. Furthermore, it was said that in northeastern New Brunswick there was an unemployment rate of about 50 per cent. Fifty per cent may be an exaggeration but this is what newspapers say. They wanted to build the refinery at a cost of $210 million, which is now producing in Belledune in New Brunswick,

in Gloucester county, They wanted to build it in Saint John.

Do you want to know what I told them? I am not afraid to say it or to put it on the record in the Senate or anywhere else. So what did I tell those who approached me to have this refinery built in Saint John? I told them in English:

● (2030)

[*English*]

"Yes, you want to have it built in Saint John instead of between Restigouche and Gloucester County where it belongs, where the raw material is. You want it to be built there. I will tell you one thing."

[*Translation*]

That was a spontaneous reaction. I told them—and I did not say this very often—we had at that time a multiple county system. I told them—

[*English*]

We have three members in Restigouche County. If the smelter is going to be built in Saint John, the three of them are going to resign, and incidentally—actually accidentally, if you want to put it that way—they were Liberals; they were supporters of mine. And the next county was Gloucester. There were five members there and I said, "In Gloucester County I have five members and they are going to resign." Then in Northumberland there were four members at that time, and I said, "Four members are going to resign." I said, "My wife comes from that area and she is going to divorce me. Now, do you still want to build the smelter in Saint John?" They replied, "Of course not."

That was my answer, and I wanted to have it on the record because it is so accurate. You know what is happening in this area? There are resources there, but they wanted to develop them elsewhere. They said, "We want to create some employment elsewhere."

I am certainly not a nationalist. I never will be, because I believe in equal opportunity. I believe in equal opportunity in the development of our natural resources. I believe in equal opportunity in education and in all the fields that we are endeavouring to work in and to work into.

[*Translation*]

It may be humiliating for me to have to say that I am from a region which has to arrive—

[*English*]

I am sorry, Senator Smith, I did not understand you, but I would like to hear what you have to say.

Senator Smith (Queens-Shelburne): I was speaking to my friend about northeastern New Brunswick. He does not know as much about it as I do.

Senator Robichaud: If I have not been successful in describing it accurately, perhaps I can continue to try to do so because I have lived there ten years of my life, and I have known and I still know what they have to go through, despite the fact that they have some of the greatest natural resource industries that are found anywhere in Canada, such as mining, forestry, agriculture and, above all, fisheries. Why then is it that that area is 200 years behind the times economically? Don't ask me to answer that.

[*Translation*]

Do not ask me to give the answer because I do not have it. I have tried myself—there have been many economic studies on the area to find a solution to this situation. It is difficult to find it. You cannot say that it is the fault of the people of the area, because all those who leave the area and go outside become successful in their respective fields. Therefore, why could they not be successful in the environment in which they have lived, since they become successful if they go to Montreal or elsewhere? Moreover, in Montreal you meet people from the northeastern area that Senator Michaud has described; you see thousands of such people who have become successful. Why could they not stay where they came from, when there is well organized fishing, when there is a well organized forestry, when there is a well organized agriculture, when there are well organized mines? It is their region. It belongs to them and to nobody else. Why could the governments not get together to allow these people to enjoy their daily life, to enjoy a good daily life like everyone else in economically developed countries?

Maybe I could talk about a period which was much sadder for the people and which Senator Riley mentioned last week, a period when many other people suffered—the period which preceded the equal opportunity program in New Brunswick. It would take a long time to explain the equal opportunity program in New Brunswick, but it is simply this, and I would like to say a few words in English to explain it.

● (2040)

[*English*]

In those days it was Canada's policy to follow the principles of the United Nations, the Marshall Plan, the Colombo Plan and CIDA. Then the program of equalization payments was instituted in Canada, under which the less-favoured provinces were to be assisted more by those provinces possessing most of our natural resources, thus providing equal opportunities throughout the country. So, we followed these plans on the international and national levels, and New Brunswick did so on a provincial level because it desired that every section in the province should have equal opportunities in the fields of education and social services. In my opinion, we did this in a very good fashion—better, actually, than it was done at the international level and, perhaps, better than it was done at the national level. We asked the royal commission to study all these problems, which they did in a very competent manner.

[*Translation*]

They produced the social equality program, and as a former premier and present senator I regret the gradual destruction of that program which tended to be copied by every Canadian province and a number of American states. I regret the intention to destroy it in New Brunswick for partisan reasons. There is in my view a gradual erosion, a kind of conspiracy of silence to ruin the basic principles of a program that perhaps should be introduced in every Canadian province, with the cooperation of the Canadian government. A basic principle is lost when one says that, after the provincial government absorbs the total cost of

education, health, administration of justice and social services, these being the four basic services, the taxpayer was asked to pay only $1.50 per $100 evaluation at market value of their property. This was reasonable. It was a reasonable basis for taxation. And now in New Brunswick they say it is too much. This is going to be reduced over a three- or four-year period. One political party says three years, the other says four years. I don't know which says what. This is destroying the foundation of something that should be basic to every provincial government. I am convinced of it. But what can one do? I simply suggest that the wilful erosion of the equal opportunity program in New Brunswick will destroy what we had in mind, what Senator Michaud had in mind, what Senator Fournier (Restigouche-Gloucester) had in mind, what Senator Riley supported. It is going to be gradually destroyed.

[*English*]

Since the creation of all the organizations, it was easy to speak of these things. I fully realize that I may have spoken too long this evening, but I hope to discuss it even further at some future time. In concluding my remarks I would simply like to point out that throughout the years we have said that we would start to solve the problem, but we have never really made a good start. When we built that smelter, we thought it was a good start. It gave employment to perhaps 1,000 people. It was a good start, of course, but what is needed at the moment is the cooperation of the provincial government. I am not trying to be critical. I am being realistic. The federal government is offering all sorts of money, despite the inflation program, to help that area. I am simply asking the provincial government to respond in the way it should by paying a trivial percentage, so that it can get the federal moneys that are required to finish Route 11, which is essential if we want to develop that whole area. That is the area we are concerned with—from Chatham up to Neguac, where my wife comes from, to Caraquet, Tracadie, Shippegan, Bathurst and Campbellton.

● (2050)

I have been the Premier of the Province of New Brunswick, and I know how tough it is to assign certain amounts of money to certain areas. I wish to say to the Senate today that I made this commitment long before coming here tonight. We want the provincial government to respond. That should have been done in 1971. We are now in 1976. It should be done this year, and I will do my darndest to make sure that it is done.

I come to my final point. Senator Croll will have to wait a few more minutes; I have waited for him for many minutes.

[*Translation*]

Some people feel that the economic situation in that area is deplorable, while others say it is disastrous and yet others feel it is improving. Notwithstanding all that, it is unbelievable to see the number of artists, musicians and singers who came from among those people. It seems that when you go to those places you feel at home. You can visit any city, any home, and you can sing songs which belong to us, French songs particularly. And because of this atmosphere, we have developed our own talents. If I were to recall the past, I could mention Anna Malenfant, who has an international reputation; Arthur LeBlanc, who has also gained international recognition; Marguerite and Germaine LeBlanc, two sisters who won every kind of prize throughout Canada; Gloria Richard, who won also many prizes. They have made it on the national and international scene. I am sure that those who are music lovers know Denis Losier, and Isabelle Roy, and Edith Butler, who goes everywhere. Those are people who were born, lived and grew up there. Also, Donat Lacroix, Roland Richard from Rogersville, Roseline Blanchard, Calixte Duguay, Mathieu Duguay, Jean-Guy Brault, who is a regular trumpet player at the National Art Centre here in Ottawa; Rose-Marie Landry and many others. There are so many artists in other fields that I could name such as—

Senator Langlois: Literature.

Senator Robichaud: Antonine Maillet, in literature. She is very popular right now. She was born and raised there. Incidentally, she is Senator Michaud's sister-in-law.

Hon. Senators: Hear, hear!

Senator Robichaud: And there are many others who succeeded in spite of their financial difficulties. They did not go looking for financial difficulties but they must live with them. In spite of all that they are doing well, but they want, they now demand—they were docile in the past—firm cooperation from the federal government. They get it, but now they also expect support from the provincial government and they are hopeful.

Senator Molgat: If no other senator wants to speak tonight, I move the adjournment of the debate.

On motion of Senator Molgat, debate adjourned.

[*English*]

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—ORDER STANDS

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to the question of total free trade as an economic consideration for Canada.—(*Honourable Senator Grosart*).

Senator Langlois: May I ask a question of Senator Grosart? If he does not intend to speak to this item before the Easter recess, would he mind postponing the debate until after the recess?

Senator Grosart: In reply to the Deputy Leader of the Government, I point out that on two occasions I have explained the reason why I have stood the item. It is because the substance of the motion is before one of the committees of the Senate, and I have been waiting to hear the evidence on it. If there is any concern, I would be very glad to yield to any other senator who wishes to speak on this subject of free trade—or, if it is causing any problem, to drop the subject entirely.

Senator Langlois: It was only a suggestion.

Senator Grosart: It is my intention, as soon as the evidence comes before the committee of which I have spoken, to speak immediately. In the meantime, I should like this order to stand. If it is causing any problem, I shall

be very glad to yield or to accept the decision of Her Honour that the matter has been disposed of.

Senator Langlois: Thank you.

Order stands.

LABOUR

THE WORKING POOR—DEBATE ADJOURNED

Hon. David A. Croll rose pursuant to notice:

That he will call the attention of the Senate to the state of the working poor in Canada.

He said: Honourable senators, the inquiry standing in my name is to the effect that I will call the attention of the Senate to the state of the working poor in Canada. I intend to speak about workers and those drawing minimum wages, and to relate that to the minimum wage, to welfare, to the poverty line, to union wages and to fringe benefits.

● (2100)

I should like to start with the work ethic which, in effect, says that if one works hard, one is justly rewarded. There is a feeling—and, in my view, it is justified—that those who work hard and live by the rules do not always get a fair break. That is the theme on which I shall speak this evening. With your indulgence, it is my intention to take an in-depth look at the working poor—who they are, where they are, how they got there and how we can get them out of there.

As to who they are, I would say that in the main they are the alumni of our educational system of no school and no skill. They are the hotel workers, laundry workers, those who work partly for gratuities, hospital workers, service workers, clerks, stenographers, sales people, domestics, those who work in shops, piece workers who work at home, and so forth. They number about a million in this country, all of whom work full time, part time, any time they can, at or below the minimum wage. The reason they work for the minimum wage is not that they do not do good work, or necessary work, but because they lack a wallop. The labour force of this country is about 30 per cent organized.

I have sent honourable senators copies of certain statistics I intend to refer to during the course of my remarks this evening. The number of people employed in Canada as of the last day of February was about 9,178,000; it is usually about 9.25 million. By breaking that total down province by province, we find that Newfoundland has 140,000 fully employed; Prince Edward Island, 40,000; Nova Scotia, 286,000; New Brunswick, 215,000; Quebec 2,380,000; Ontario, 3,575,000; Manitoba, 400,000; Saskatchewan, 361,000; Alberta, 789,000; and British Columbia, 994,000. All of these figures, by the way, come from Statistics Canada.

Eight to 10 per cent of the working poor are to be found in the province of Ontario; 10 to 15 per cent in the province of Quebec; 10 to 12 per cent in the West; 15 to 20 per cent in the three Maritime provinces, and 25 per cent in Newfoundland.

Originally, or course, the introduction of minimum wage standards had a useful purpose, that being to provide a uniform rate across the country so that firms located in high-cost areas could be competitive.

Unemployment among those between the ages of 14 and 19, the least skilled and experienced group in the labour force, is double the national average. It is not a higher minimum wage that creates unemployment amongst teenagers, or the fact that they are seeking jobs in marginal industries, but the lack of marketable skills.

The minimum wage was designed to protect workers with little bargaining power, to eliminate poverty, to provide all workers a living wage and to protect low wage earners from exploitation. The preamble of the minimum wage legislation of Manitoba reads, "To take into account the cost to the employee of purchasing the necessities of life and health." The preamble of the minimum wage legislation of Quebec states, "To take into consideration competition from outside countries, other provinces, and economic conditions peculiar to various regions of the province."

To date, minimum wage standards have done nothing to eliminate poverty; rather, they perpetuate it. Moreover, minimum wage standards are not enforced. The people generally seem to know little about minimum wage standards or, indeed, pay any attention to them. In that respect, I should like to quote from the *Globe and Mail* of December 5, 1974, as follows:

> Labour Minister John MacBeth—
>
> Mr. MacBeth is the Ontario Minister of Labour.
>
> —admitted (Monday) that a provincial arbitration board had awarded some workers of the Bobier Convalescent Home in Dunton (Ontario), wages lower than the minimum wage.

That is an arbitration board award!

A minimum wage for female workers was introduced in Alberta in 1914. A minimum wage standard for men in Newfoundland was introduced in 1950; in Prince Edward Island in 1960; in Nova Scotia, 1945; in New Brunswick, 1945; in Quebec, 1940; in Ontario, 1937; in Manitoba, 1933; in Saskatchewan, 1940; in Alberta, 1936; and in British Columbia, 1925. The 1935 Minimum Wages Act of the Dominion of Canada was declared *ultra vires*, and the federal government enacted the present Canada Labour (Standards) Code in 1965.

I well remember the passage of the Ontario act in 1937. We had high hopes for it at that time. However, the years have diminished and eroded the purposes for which that act, which we then hailed as bringing on a new day, was passed. It was forward looking in its day. Despite the fact that minimum wage standards were raised then and subsequently, studies indicate that such increases had no effect on lessening unemployment. Studies in the United States and Canada have indicated that minimum wage standards do not bring about employment. Of course, the purpose, as I indicated, was to protect the worker from poverty and to keep him off welfare. Also, there was to be a floor.

● (2110)

Today in Canada there is no minimum living wage, which, as I will indicate a little later, is due to the fact that no employee with a normal family and being paid the minimum wage can earn enough money to live and meet the necessities of life. The income of the number of women in the work force has effectively helped to keep the basic

wage low, while at the very same time boosting family incomes.

We are now looking at the facts and considering the minimum wage almost forty years later, and what do we find? We find that the minimum has become the maximum, and we find that the floor has become the cellar. Instead of alleviating poverty, it has perpetuated it. The poor are working for less than others get on welfare. What we must do is rescue them from the relief.

At the present time Alberta is—and has been for a considerable length of time—giving some help to the working poor. Ontario has given some help. However, most of it is given through welfare. These people who are the working poor will not accept it. The City of Toronto had to advertise. I saw an advertisement in the Toronto *Star*, giving a telephone number and asking people to apply. They would not apply because they had to fill out all the welfare forms. They had to make an application, and they had to appear to be on welfare. The result is they are not getting any help at the present time and, in turn, this is resulting in something which we had not foreseen.

Once upon a time a wife had an opportunity to either work or stay at home and raise a family. Today that is clearly not within her own capacity to decide. The wife goes out to work, and the children are put in day care centres. The older children go out to work. The result is that the family is working for minimum wages and sending the children out to work for minimum wages, and they perpetuate the situation. We have to do something to break that cycle. Moreover, employers assume that today's married worker has a working spouse and receives family allowance payments to help support the children.

I said earlier, I would reconcile the minimum wage with welfare and with the poverty line. In order to bring the complete picture home, I would indicate that the number of people at the poverty line in Canada at the present time is about what it was when the Special Committee on Poverty made its original report in 1971. That report, entitled *Poverty in Canada*, indicated that at that time 23 per cent of the people were at or below the poverty line, and the Canadian Council on Social Development said that 27 per cent of the people were at that level.

Senator Bourget: Are those working people, or people in general?

Senator Croll: Working people; nothing to do with welfare at all. However, they may find themselves there.

Of those at the poverty line, 40 per cent are people with children under 16 years of age; 20 per cent are 65 years of age and over; 20 per cent are heads of one-parent families; and the remaining group of 20 per cent are poor despite the fact they work full time the year round. That is the cause rather than the solution of their plight.

I have here the poverty line for 1975 which I would ask leave to place on the record, to appear as part of my speech.

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

Hon. Senators: Agreed.

[Senator Croll]

(The table follows:)

THE POVERTY LINE, 1975

Family Size	Economic Council	Statistics Canada (revised) (pop. 500,-000 or more)	Senate Committee	Canadian Council on Social Development
1	$2,520	$ 3,459	$ 3,372	$ 3,012
2	4,199	5,013	5,620	5,020
3	5,038	6,397	6,744	6,024
4	5,877	7,608	7,871	7,028
5	6,719	8,504	8,992	8,032
6	6,719	9,336	10,116	9,036
7	6,719	10,236	11,246	10,040
8	—	—	—	—
9	—	—	—	—
10	6,719	10,236	14,612	13,052

Senator Croll: There is no official poverty line in Canada. These are basically the four poverty lines arbitrarily defined by four independent organizations. The first independent organization, you will see, is Statistics Canada, and its poverty line was based on the 1961 knowledge of Canadian consumer spending patterns. It said that a family essentially lives in poverty if it spends 70 per cent or more of its income on food, shelter and clothing. That was the poverty line used by the Economic Council in its Fifth Annual Review, published in 1968. Statistics Canada revised the poverty line developed in 1973, incorporating more recent knowledge of Canadian consumer spending habits. Essentially a family lives in poverty if it spends 60 per cent or more of its income on basic essentials. This poverty line also takes into account the fact that it generally costs more to live in large urban areas than in rural areas.

The Senate committee's poverty line was based on the average Canadian family income, adjusted for income tax paid, as well as for changes in family size, and it indicated that a family is poor if its income is 57 per cent or less of the average Canadian family income. According to the Canadian Council on Social Development poverty line, which is based on the average Canadian family income adjusted for families, a family is poor if its income is less than 50 per cent of the national average.

● (2120)

For all intents and purposes the Statistics Canada-Economic Council poverty line is obsolete. First, it makes no allowance for family members beyond the fifth. Secondly, the 70 per cent criterion for basic necessities is no longer an accurate picture of Canadian life, because the average family income in Canada has increased whereas the proportion for food, clothing and shelter has fallen. The more recent spending surveys show that the average family spends closer to 60 per cent of its income on essentials.

Honourable senators, I have here a list of the general minimum wage rates for experienced adult workers, legislated as of December 31, 1974. I obtained this information from the research branch of the Department of Labour,

and I have extended it to show the number of hours worked in each province in Canada, the rate per hour, the rate per week, the rate for a 40-hour week, and the rate for a 44-hour week. May I have leave to include this table as part of my remarks this evening?

Hon. Senators: Agreed.

(The table follows:)

GENERAL MINIMUM WAGE RATES FOR EXPERIENCED ADULT WORKERS
(Legislated as of Dec. 31, 1974)

Jurisdiction	Hrs. of Work	Effective Date	per hour	per week	(40-hr. wk) per year	(44-hr. wk) per year
Federal	40	July 23, 1975	$2.60	$114.40	$5,408.00	$5,948.80
		April 1, 1976	2.90	127.60	6,032.00	6,635.20
Alberta	44	July 1, 1975	2.50	110.00	5,200.00	5,720.00
		March 1, 1976	2.75	121.00	5,720.00	6,292.00
British Columbia	44	December 1, 1975	2.75	121.00	5,720.00	6,292.00
		June 1, 1976	3.00	132.00	6,240.00	6,864.00
Manitoba	40	October 1, 1975	2.60	114.40	5,408.00	5,948.80
New Brunswick	44	July 1, 1975	2.30	101.20	4,784.00	5,262.40
		June 1, 1976	2.55	112.20	5,304.00	5,834.40
		November 1, 1976	2.80	123.20	5,824.00	6,406.40
Newfoundland	44	January 1, 1975	2.20	96.80	4,576.00	5,033.60
		January 1, 1976	2.50	110.00	5,200.00	5,720.00
Nova Scotia	44	March 1, 1975	2.25	99.00	4,680.00	5,148.00
		January 1, 1976	2.50	110.00	5,200.00	5,720.00
Ontario	44	May 1, 1975	2.40	105.60	4,992.00	5,491.20
		March 15, 1976 ($2.50) (tip differential)	2.65	116.60	5,512.00	6,063.20
Prince Edward Island	44	October 1, 1975	2.30	101.20	4,784.00	5,262.40
		July 1, 1976	2.50	110.00	5,200.00	5,720.00
Quebec	44	June 1, 1975	2.60	114.40	5,408.00	5,948.80
		December 1, 1975 (1976 figure not projected yet)	2.80	123.20	5,824.00	6,406.40
Saskatchewan	40	March 3, 1975	2.50	110.00	5,200.00	5,720.00
		January 1, 1976	2.80	123.20	5,824.00	6,406.40
Northwest Territories	44	April 1, 1974	2.50	110.00	5,200.00	5,720.00
*Yukon Territory	40	July 23, 1975	2.70	118.80	5,616.00	6,177.60
		April 1, 1976	3.00	132.00	6,240.00	6,864.00

**It is a federal rate, plus 10¢*
March 29, 1976

Senator Rowe: May I ask the honourable senator a question? Did I understand him to say that the absolute number who are at the poverty line today is the same as the absolute number who were at the poverty line at the time his committee made its report some years ago, or did he mean that the percentage is the same today as it was then? I ask that because he did mention the figure of 27 per cent, and, of course, there would be quite a large difference. If the absolute numbers are relatively the same, then there has been a tremendous improvement, whereas if the percentage is the same, the situation has remained relatively static. Can he clarify that for me?

Senator Croll: Actually, senator, I was dealing with percentages, and I indicated that the percentage was just about the same as it was at the time the report was brought in. But there has been some improvement.

Senator Rowe: Thank you.

Senator Croll: There has always been an historical relationship between minumum wages and welfare. The minimum wage was to be higher than welfare, and for a long time it remained so. In trying to understand these problems in Canada we work on the basis of what is considered

a normal Canadian family, namely, one consisting of a father, mother and two children. Using that as the base, in Ontario at the present time a family receiving the minimum wage, paying income tax, unemployment insurance, Canada Pension Plan, car fare and health insurance, has a take-home pay of $403 per month. A similar family on welfare in Ontario, being free of all those various charges, and having the extra paid for it, would receive $428 per month, which is about $25 more per month. In other words, the man who works regularly every day makes less money than it would be possible for him to receive if he were on welfare.

As I believe I indicated originally, there are approximately three million unionized workers in this country. For the most part these are people who have belonged to unions for some time, and they are not thinking in terms of working-class solidarity so much as simply contributing dues in order, as they believe, to have the unions negotiate better wage deals for them collectively. They hope to have better bargains with their employers than would otherwise be possible individually. By and large, they have proved themselves to be right in that supposition. Even in today's circumstances, under the present anti-inflation provisions, union workers are more likely to do better than non-union workers.

Let me give you an illustration of the type of situation which often develops. Let us consider a man living in a motor city—it could be a steel town, or some other industrial city—who is without any apparent skills and has had no particular schooling. He becomes employed in an automobile factory doing hard, boring, tedious work. For that work he receives, at the present time, $5.43 an hour plus $1.10 cost-of-living bonus for a total of $6.53 an hour. In addition, he receives a pension by means of which, if he has put in 30 years, he will receive $625 a month; and that will rise to $700 a month in 1978. If he becomes unemployed he can go on supplementary assistance for almost 95 per cent of his last salary, and if he has enough seniority this could be for 52 weeks. If you calculate that out in its totality, you will see that he is receiving about $9 per hour. That is, while $6.50 an hour would be his basic pay, he would receive another $2.50 an hour in fringe benefits. These figures would be higher in the automotive industry than perhaps in other industries.

According to the table of general minimum wage rates to which I referred a moment ago, the highest provincial minimum wage rate is found in British Columbia. It is $3 per hour, or $6,240 per year for a 40-hour week. Compared to that, the minimum wage rate in Prince Edward Island is $2.50 per hour, or $5,200 per year, which is considerably less.

If you look at the poverty line for a family of four you will see that it is $1,000 less than any of the poverty lines that are in vogue at the present time. Even if they get $3.50 an hour, as they are now permitted to do, this will only amount to $7,200 per year, as opposed to the poverty line laid down by Metropolitan Toronto, Vancouver and Montreal, which I think you will find is nearly $9,200.

● (2130)

What is really needed, therefore, is at least $4 an hour, which, in my view, is not in the books. As a matter of fact, it is not tenable. The kind of industries which pay the minimum wage are marginal, inefficient, under-financed, require only a low level of skill, are more often than not to be found in small towns, and have only a low rate of production. They could not possibly pay such a figure. You will usually find that the man who gets $9 an hour is not more skilled than the man who gets $3 an hour. He may be a little luckier, and he has the muscle and strength to help himself.

We are now actively discussing a supplementary income for the poor to give them an incentive to work in low-paying jobs without denying the worker's family its basic needs. Ontario, Alberta, British Columbia and Quebec are already providing incomes for the aged, the disabled, and mothers with dependent children. The federal government has been providing supplementary incomes for the aged for some time. Under our old age security arrangements there is a supplementary allowance in this area that has been working well for some years. This is something we pay because there is a need for it.

We do not have to look out for the princes of labour—they will look after themselves. I am talking about the paupers of labour, those who do not have the same advantages.

After the war the workers in this country demanded social wages on top of whatever wages were then in effect. The social wages grew from time to time, and now they are almost 20 to 25 per cent of the wages paid organized workers. Those in receipt of minimum wages, however, get none of this at all, and so we are faced with a difficult and painful situation. How much more can we ask of these people who believe in the work ethic and genuinely put it into practice, when at the best minimum wage being paid they cannot possibly rise above the poverty line?

Some time ago, when speaking in this house, I suggested that something be done about fringe benefits. Not a great deal has been done about it, and we must realize that no head of a Canadian family of four, working at the highest minimum wage paid in this country, can support his family in accordance with reasonable standards. To meet this standard his wife or children must also work. The family needs one and a half incomes in order to stay ahead of the game, or even "even."

To suggest that the wages of such people be supplemented is not to suggest anything new. We are doing it already, as I said, in the form of old age security. Britain does this, as do the Germans. They also have fringe benefits for the working poor. It is not a matter of throwing problem dollars at problems but, rather, investing dollars in people with problems. These people have no special lobbyists. They have no one working for them in Ottawa, except us. They have few special pleaders and no special talent for expressing themselves. Something must be said for them. They know they are losers, and they fear that their children will be losers.

The minimum wage, for all practical purposes, has outlived its usefulness, but until we have something to substitute for it we have to hold on to it.

We pay little attention to these million people; as a matter of fact, we ignore them. It is time that the situation was brought to the attention of the majority of Canadians. A majority has no right to be wrong, and I repeat that

something has to be done for people who have to live on the minimum wage, in order to make sure that they continue working. They have already lost out to the welfare departments; they have already lost out to people who get fringe benefits. How much longer can we expect them to go on?

Those of you who have a document on your desks today from the Department of National Health and Welfare dealing with guaranteed income will see that three alternatives are suggested. One is a guaranteed income, another is a wage supplement, and the third is a negative income tax. The labels may be different, but the effect will be the same. We should not let the labels fool us at all.

It is my view that these people are ahead of the politicians. They have a more friendly view than we have of the basic guaranteed income, which is designed to establish a floor for a family income. The time is long past for us to take some effective action.

The course that is open to us is one of supplementing, through a guaranteed income, the wages of the people on minimum income so that they will know exactly where they stand. As a consequence, they will continue to work and produce, and it will no longer be a case of the people who are not producing receiving more than those who are.

● (2140)

Honourable senators, we owe it to these people to take some action as quickly as possible, and my purpose tonight is to bring this to your attention. I realize that the economic climate is bad at the present time but, even if it means an uphill struggle at this particular time, something has to be done. I suggest that some of us participate in this debate for the purpose of sending and emphasizing the message to the Canadian people and to other parliamentarians that this is a problem which is long overdue for attention.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 8 p.m.

THE SENATE

Tuesday, April 6, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE WILLIAM A. BOUCHER
THE HONOURABLE HENRY D. HICKS

FELICITATIONS ON RETURN TO CHAMBER

[*Translation*]

Senator Langlois: Honourable senators, allow me to point out the return of our colleague Senator Boucher who is back this evening after a lengthy illness.

We are pleased to see him back among us aglow with health and we hope he will remain so for several years to come.

Senator Boucher: Thank you very much, Senator Langlois, for your kind words.

[*English*]

Senator Langlois: I am also very pleased to welcome Senator Hicks back to the chamber. I am sure all honourable senators are glad to see him in such splendid health.

Senator Hicks: That is very gracious of you. I thank you very much indeed for your sentiments.

Senator Flynn: Speaking of health, would the deputy leader report on the state of health of the Leader of the Government?

Senator Langlois: I am very pleased to report that the Leader of the Government is on his way back to Ottawa. He will arrive late this evening and will be with us tomorrow.

INCOME TAX ACT

BILL TO AMEND—SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Davey for second reading of Bill C-58, to amend the Income Tax Act.

Hon. Jacques Flynn: Honourable senators, I have been challenged both by Senator McElman and Senator Perrault—I regret that the latter is not here tonight because I have a few words to say about his speech—to participate in the debate on this controversial piece of legislation. I have never backed away from such challenges in the past, though in some instances it might have been more prudent of me to do so, and I am not about to do so tonight.

Senator McElman, when he spoke in this debate, reminded us all of a previous debate on the same subject. It took place in 1965 over Bill C-118. Bill C-118 dealt, in part, with advertising space in issues of non-Canadian newspapers or periodicals and the conditions under which the cost of such advertising could not be a deductible item of expense when the taxpayer came to reckon his income taxes for that year.

But the debate on that part of Bill C-118 in 1965 which dealt with periodicals centered mostly on subsection 2 of the new section 12A which was being added to the existing act. It provided an exemption which made the cost of advertising deductible even though the advertisement appeared in an issue of one of the two most important, then so-called, non-Canadian newspapers or periodicals—*Time* and *Reader's Digest*. The idea, it became obvious, was to permit Canadian advertisers to consider advertisements placed in the Canadian editions of *Time* and *Reader's Digest* as tax deductible.

The Liberal government of the day was of the opinion that *Time* and *Reader's Digest* should, for the tax purposes of those Canadian firms who used them as an advertising vehicle, be considered Canadian magazines. We in the Opposition were of a contrary opinion; we felt that *Time* and *Reader's Digest* should lose their special status.

Today, Senator McElman points to the position we took eleven years ago and suggests we should be very happy with Bill C-58. That is, to say the least, tenuous and simplistic reasoning.

What Senator McElman has overlooked in his eagerness to point to as much inconsistency in the Opposition as exists in the government is the matter of context. The position I took in 1965 must be placed in the proper context. As to the purpose of this type of legislation, I said in 1965—and I am reading from page 291 of the *Debates of the Senate* of the 1965 session:

> We all agree that Canadian periodicals play a fundamental part with regard to the creation, if not the preservation, of a truly Canadian spirit.

There is something subtle there which I hope has not escaped Senator McElman.

> Of course, competition from American periodicals is for our own periodicals a very serious threat of extinction.

With regard to the desirability of affording protection to Canadian periodicals, I should say that I have not changed my mind; it's important that we provide it. I am not, however, completely convinced that competition from American magazines is any more serious today than it was in 1965. In any case, if a threat does exist, it will certainly not be diminished by the type of legislation before us now. If protectionism is the course we wish to follow, then the logical step would be to bring in legislation barring the entry into Canada of all American and other non-Canadian periodicals. But none of those who have defended this bill has suggested we go that far nor am I now suggesting that we do so.

The threat to our national identity and cultural welfare surely does not come from the presence in Canada of *Time* and *Reader's Digest* alone. If such a threat exists, it must be seen as coming from the presence in Canada of a multiplicity of non-Canadian publications. And these periodicals have continued and will continue to enter Canada whether we pass Bill C-58 or not. In other words, if what we seek is protection for our national identity and cultural purity, then, as I will try to indicate, this bill is useless. So, why bother with it?

The method proposed in 1965 to help Canadian periodicals was to deny Canadian firms a tax deduction for moneys spent on advertisements in American magazines, if those advertisements were directed primarily at a market in Canada. On that particular quasi-solution to the problem, I had this to say at the time—and I am reading again from *Hansard* for the 1965 session, at page 291:

> This way we assume—

And I underline "assume".

> —that advertising will be channelled towards Canadian periodicals. I am not sure—

And I underline "I am not sure".

> —that this will be definitely the result, but the method which is suggested here is certainly worth a try.

It should be obvious to the clear-thinking objective reader that I was not endorsing without reservation the solution proposed at the time. And now, in retrospect, I would say I was right not to do so. Essentially, my belief was that if you want to go that way, go all the way. And I now suggest to you, honourable senators, that there is precious little evidence that this was the best method to use to achieve the goal the government of the day had in mind.

● (2010)

It is well to remember also, as we seek to compare the attitude one had in dealing with the 1965 bill with that which he has in regard to Bill C-58, that in the 1965 bill the provision dealing with the "magazine tax," as it was then referred to by Senator Hayden, was only one of several in that bill to amend the Income Tax Act. Bill C-58, on the other hand, deals exclusively with the matter of tax exemption for Canadian firms advertising in American magazines or on American radio or TV if the intended market is in Canada. So, the focus of the present bill is different from that of the 1965 bill. Furthermore, close to 11 years have elapsed since Bill C-118 and, if I, like Senator McElman, may be permitted a pun, we have had "time" to "digest" not only the problem but the value of the solution proposed at the time. The problem, if one really existed, remains the same. So, the solution must then be deemed to have been ineffectual.

Another difference between this and the 1965 bill is the fact, as I said a while ago, that the present bill deals not only with periodicals but also with broadcasting, which is something totally different. With broadcasting, we are into an area of much greater sensitivity involving the continued harmonious relationship we enjoy with our neighbours to the south. There has been very little criticism in the United States over our forcing *Time* Canada out of business. But such has not been the case with regard to what is viewed in the United States as our attempts to interfere with the freedom to broadcast. Strong protestations have been made in Congress, and extensive discussions have taken place between the CRTC and the American FCC. The broadcasting stations on both sides of the border which would be affected by the provisions of this bill are not all in the same situation. Yet, the bill makes no distinction between them. It is quite obvious that station KVOS in Bellingham, Washington, which is the property of a Canadian company, does not fit into the same category as do the Buffalo area stations.

So, to those on the other side who would criticize me for taking a different position now from what I took 11 years ago, I would say that people in glass houses should not throw stones. The government side also has come around 180 degrees. They gave *Time* and *Reader's Digest* an exemption in 1965, and now they want to remove it. I maintain there was no evidence to justify giving them an exemption in 1965; whereas now there is evidence that the removal of the exemption would accomplish nothing. The government was wrong in 1965 and it is wrong again now. That does not surprise me, and it will not surprise very many other thinking Canadians. I only mention this to point out how unwarranted was Senator McElman's implied criticism of my position.

With regard to periodicals, this bill has one major fault which has been mentioned by most of those who have opposed the bill in this debate. Very simply, it gives far too much discretionary power to the Minister of National Revenue—power to decide the percentage of Canadian ownership required and the percentage of Canadian content required before a periodical published in Canada can be considered "Canadian" for income tax purposes. We have proof that this sort of discretionary power is dangerous. *Time* magazine was uncompromisingly forced out of the country—a sort of literary exorcism. *Reader's Digest*, on the other hand, was permitted to stay.

Reader's Digest provided many jobs in Quebec and, as Senator Sullivan pointed out last week, the people of Quebec, liking the French language edition of *Reader's Digest*, did not want to lose it. So the standards with regard to ownership and content were lowered to accommodate *Reader's Digest*. But they could not be lowered any further.

That sort of double standard, that sort of adjusting of the rules to favour those whom you want to see win, is dangerous. The way this government has spared *Reader's Digest* but has put the screws to *Time*, because there was something to lose politically by being equally harsh with *Reader's Digest*, leads me to say that the government is no more sincere now than it was in 1965.

Some Hon. Senators: Hear, hear.

Senator Flynn: The government lacks the courage of its convictions, or else it has realized that what it is doing here is basically useless but it feels it must do something to appease the nationalists and so it has decided to sacrifice one—*Time*.

Like Bill C-118 in 1965, Bill C-58 affords me once again the opportunity to say of the government that it is much more concerned with giving the impression of doing something than it is with actually doing something of measurable worth. All of the reasons I have just suggested for the government's behaviour are as likely as they are unsav-

oury. And so, if for no other reason than that, I think the bill should be shot down in flames.

But those are not the only reasons for doing away with this bill. Another is that it is unnecessary. We can do away with it, and still the government's purpose will have been achieved. *Time* has left Canada and will not be back, whether we pass this bill or not. *Reader's Digest* will continue publishing as if nothing had ever happened. Indeed, I doubt that the percentage of Canadian content in the future will be any different from what it has been in the past. *Reader's Digest* is here to stay, whether we pass this bill or not. Moreover, under the regulations pertaining to the Foreign Investment Review Act, it is doubtful that *Reader's Digest* would be permitted to revert to being principally American-owned.

So why bother passing a bill, the principal aim of which has already been reached? More particularly, why pass such a bill when its secondary effects are as unwholesome as they are? I refer here to the effect this bill would have on a magazine such as *MD of Canada*. Bill C-58 would destroy *MD of Canada*. Senator Sullivan explained last week the special circumstances surrounding that excellent publication. I, personally, cannot help feeling that we would be ill advised to eliminate publications of such a scientific and professional nature, publications which cannot be replaced by Canadian—in the National Revenue Department's definition of the term—journals of "anywhere near equal worth." I am quite sure that, if the question had been limited to publications of that type, no one would seriously have suggested that the government should bring in legislation to force them out. Who could reasonably defend the thesis that "such publications represent a danger to our national identity and our cultural integrity?"

Senator McIlraith, I suggest to you, was right in his assessment of this bill. If we kill it we will be forcing the government to review the whole question and to come up with another remedy, if indeed the question still presents a problem of any significance, and if a solution is possible the effects of which will not prove to be worse than the problem in the first place. In the meantime, *Time* will have left the country; *Reader's Digest* will be in the process of becoming a thoroughly Canadian magazine—which means it is likely to become dull—*MD of Canada* will still be sent free to all our medical practitioners, and the world will be allowed to unfold as the real God intended it to.

● (2020)

I come now to broadcasting. The problem here is much more complicated. By trying to adopt the same tax principle to this field of endeavour as we have used with regard to periodicals, we risk confrontation with the United States and an uneven treatment of all the particular cases involved.

I was much surprised by the government leader's speech on this subject, and before I quote excerpts from it pertaining to station KVOS, I would like to make a few comments on its general tenor.

Its impassioned tone clearly indicated that the government leader was very worried about the criticism levelled against this bill by several of the government supporters in this place—Senator Perrault's own troops. The speech was a call to arms, an endeavour to rally the forces. I want the

government leader to know that it was very gratifying to the Leader of the Opposition to see the reaction of those on the government side who have opposed this bill. They did not appear to be either moved or convinced. It appears that this is one instance when party loyalty will have to take a back seat to reason. There is a limit to the number of times a government can ask its supporters to follow without question. There is a limit to the number of times a government can ask the Senate not to think for itself and not to act according to what it considers right.

If the Senate kills this bill, it will have done something of which it can be justly proud. Of course, the likelihood of that happening at second reading stage is remote. *Time* magazine was obviously very pessimistic. They left the country without even waiting for the bill to come before the Senate. There is a message there somewhere—and it is not that *Time* knew nothing of Canadian parliamentary procedure. If anything, it is that *Time* knew too well how this place usually operates. They probably foresaw an earth-shaking speech by Senator Perrault, and concluded that the faithful could not resist the power of his logic.

Some Hon. Senators: Hear, hear!

Senator Flynn: But I will still be interested to see whether this bill can get by second reading, and, if it does, how it will fare in committee.

Coming back to what Senator Perrault said about the desirability of applying this type of tax measure to broadcasting, I was most interested in his recitation of the success story that is station KVOS. I would ask honourable senators to bear in mind that the purpose of this legislation is the protection of Canadian culture and not the financial protection of Canadian broadcasters, which would be only a means to achieve the real purpose. I quote from page 2001 of *Debates of the Senate* of March 30 last:

> In 1953, when KVOS-TV was the lone television station offering its signal in the Vancouver market, today's problems did not exist. Then came channel 2, CBC Vancouver, channel 6 Victoria, and channel 8 Vancouver and their many other counterparts in the Maritimes, the Prairie Provinces and Ontario. But the West is the area I know best. The fact is that, after 23 years of its highly profitable existence, almost all of the KVOS-TV programs are available or potentially available on the dial from other stations or on the cable system.

So, Senator Perrault admits that Canadian stations are offering the same programs as KVOS-TV. Does he suggest that this legislation will change the nature of those programs? It is quite evident that presently all Canadian stations carry programs originating in the United States and that therefore the solution, if one is required, is not in this tax measure but in regulations by the CRTC. Everybody knows that this is a very difficult problem for the CRTC. Experience has shown that a preponderance of Canadian radio and television programs on our networks is not a goal that we are about to achieve.

Of course, if the proponents of this measure wish only to channel more money into Canadian broadcasting; if their only objective—and I would be pleased if they were frank enough to admit it—bears no relation whatever to ensuring high quality Canadian content in our braodcasting, but is

an attempt at offering financial security to the broadcasting industry, then I would ask them if they are prepared to offer the same protection to other fields of endeavour. It comes to mind that the Canadian textile industry, for instance, would certainly be happy with some measures destined to help it solve its many urgent difficulties. But here again, the problem would be one affecting the commercial relations of Canada and the United States.

The broadcasting problem is one similar to that affecting the importation of goods and services. Broadcasting is an imported service whether it comes from Buffalo or from Bellingham. And under the terms of GATT, Canada and the United States have agreed, as sovereign nations, that no tax will be placed upon imported products, which can be defined also as services, to the detriment of the imported product over the domestic product.

Senator Perrault said, as reported on page 1998 of our Senate *Debates:*

> These references to broadcasting have commercial and viewer implications across Canada. It may be that our negotiations with our friends to the south should be resumed for the purpose of discussing the ultimate aspects of television and radio braodcasting, cablevision, and the question relating to the ownership and rebroadcasting of program material. I do not resist that idea at all. I think it is very important that we continue discussions and negotiations in those areas.

I would ask him, if he were here, if he does not resist the idea that discussions and negotiations on the various aspects of television and radio broadcasting with our friends to the south will be enhanced by the passage of this bill. Our representatives would be going into such discussions with a law that could be put into force the very next day, because this is what is provided for in this bill with reference to broadcasting. We would be telling our friends to the south, "We will have what we want, or else." I suggest to you that if we were to adopt an attitude like that, the discussions would not be very long, nor would they be very fruitful. Of course, there would be the discretion given by the legislation to the Minister of National Revenue; but as I said before, I cannot accept that a problem of this kind be dealt with in one way today and in another tomorrow.

Therefore, whether we look at the bill as it affects periodicals or as it affects broadcasting, I suggest to you that arguments have been made that should convince the Senate to resist the passage of this bill at the stage of second reading.

I have reread most of the speeches made in this debate and I need not repeat the objections which were raised successively by Senators Walker, Cook, Hayden, Laird, Manning, Beaubien, van Roggen, McIlraith, Sullivan and Paterson. I am not saying I accept all their arguments, but most of them are strong enough to force me to the conclusion that although the purpose of this bill may be laudable, the method it seeks to employ in order to achieve its goal is extremely dangerous. It is arbitrary, will most likely be ineffective, and is susceptible of creating injustice, confrontation and irritation south of the border.

● (2030)

It is arbitrary because the minister would be in a position to change the norms from day to day. It would likely be ineffective as far as publications are concerned because *Time* is out and *Reader's Digest* is in. It would only result in pushing out of Canada such publications as *MD of Canada.* It is susceptible of creating an injustice for the very reason that publications such as *MD of Canada* would no longer be able to publish in Canada.

As far as the broadcasting aspects are concerned, it would create injustices by dealing in the same way with stations which are not in similar positions. Also in the area of broadcasting, it would create confrontation and irritation south of the border.

The government, I suggest, should be forced to reconsider all aspects of the question with a view to arriving at a more acceptable solution. The way to obtain such a solution is by killing Bill C-58, either at this stage or, if that does not happen—the most obvious reason for which would be the eloquence of the Leader of the Government, and I am sorry he is not present to hear that compliment—strangling it, or putting it to sleep, if you prefer euphemisms, at the committee stage.

Hon. Keith Davey: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Davey speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Davey: Honourable senators, I am grateful to those who have participated in this debate which, if nothing else, has convinced me of my inadequacy as a sponsor of legislation. Certainly, during the course of this debate we have heard a great deal of misinformation and misunderstanding. Before I proceed, with the hope of setting the record straight, I want to thank the Leader of the Opposition for speaking this evening, which he did at my convenience. In congratulating the Leader of the Opposition, I imagine myself standing here eleven years from tonight having changed my mind 100 per cent on this issue.

Senator Flynn: I hope you do change your mind from time to time.

Senator Davey: If I could do so at all, I assure Senator Flynn it would not be with his grace, dexterity and wit.

I have purchased a copy of the current issue of *Newsweek,* which I have here in hand. In this debate my honourable friend, Senator Desruisseaux, as reported at page 1865 of *Debates of the Senate* of March 9—and I invite honourable senators to listen carefully to his words—said:

> *Time* is said to have 500,000 Canadian subscribers. Some have said that the number is a little smaller than that, but it is still an impressive figure. *Newsweek,* which makes no waves and has no special Canadian news section, has less than half the circulation of *Time* in Canada and less than half the amount of Canadian advertising.

I draw the attention of honourable senators to the last words of that passage—"and less than half the amount of Canadian advertising." The fact is that *Newsweek* does not carry any Canadian advertising, and never has.

In a sense, that is what this debate is all about. Bill C-58 seeks to put *Time* on exactly the same basis as *Newsweek* and every other American magazine entering Canada. It will not prevent *Time* magazine from entering Canada. Indeed, I purchased the latest issue of *Time* magazine at the airport this morning. What this bill will do is prevent the dumping of editorial material from Time Inc. into a so-called Canadian edition, which can then skim off the cream of available Canadian magazine advertising revenues.

Incidentally, in the debate which we are now concluding, my friends, Senator McIlraith and Senator Manning, expressed some concern for the plight of Canadian advertisers if this bill is passed—that is, once *Time* ceased publishing a Canadian edition, as indeed it has. I think those honourable senators would be interested in the following quotation from *Marketing*—and *Marketing* is the trade newspaper of the advertising industry in Canada—which states in part:

> *Time* magazine will offer space in its March 15 issue—

And that, of course, is no longer the Canadian edition; it is the United States publication of *Time*.

> —to Canadian advertisers for up to almost $4,000 less per page.

Doug Findlay, vice-president and advertising and sales director, said, "We've decided to peg our rate base at 200,000 and pass the savings on to the advertiser." These are the people for whom Senator Manning and Senator McIlraith were weeping crocodile tears. Here is the advertising manager of *Time* saying that they are going to pass the savings on to the advertisers. Mr. Findlay added:

> I stress that the *Time* magazine read now in Canada will be the same as before, except there won't be a Canada section. The advertising will continue to be Canadian and we'll continue to print the magazine in this country as before.

Last week, *Time* announced its new subscription rate in Canada, which is $30 a year. I quote Stephen LaRue, who was President of Time Canada Ltd., as reported in the *Globe and Mail*, as follows:

> Mr. LaRue said the $30 is a reduction. Subscriptions to the U.S. edition used to cost $40 in Canada before the suspension of the Canadian edition. The company could not sell it more cheaply. That is the price of that magazine in Canada.

So the price of *Time* in Canada is now $30 a year.

I made reference just a moment or two ago to *Newsweek*, which now comes into Canada on the same basis as *Time*. The subscription rate for *Time* is $30 per year; *Newsweek* manages to sell subscriptions in Canada for $19.50.

The debate on the motion for the second reading of Bill C-58 has been a good one. It has been a full debate, and it has been useful. I do have one disappointment, however, in the debate, and it is that so few of the speakers, including those of us who support the bill, did not direct much of our time, attention and concern to the need we have in Canada to develop and support our own native, home-grown Canadian magazine industry. In this connection, the letter I am about to read is self-explanatory. I hasten to add, I received this letter during the course of the debate. It was unsolicited by me, and I do not know the people involved. It is from Vancouver and is dated March 4, 1976. The letterhead reads *Canada's Westword, The Magazine for British Columbians*, and it is signed by Mr. Clive Cocking, Editor. He says:

> —we thought you might be interested in the enclosed presentation describing a new Canadian magazine which we are currently developing.
>
> Called *Canada's Westword*, it is to be a monthly news feature magazine covering British Columbia affairs exclusively and is planned to have a circulation of approximately 275,000, making it the largest publication in B.C.
>
> The key to it is a shared distribution scheme which has arranged with some 25 community weekly and daily newspapers, whereby they will distribute the magazine as a supplement each month. Its format will of course be that of a magazine—on the same glossy stock as *Time*—and its contents will be very topical and strongly news-oriented.

● (2040)

> The publisher, Mr. Bob Leighton, has asked me to particularly tell you the actions of the government in fighting to encourage the development of an indigenous Canadian magazine industry have been very much appreciated here. We are very hopeful now that more equitable competitive conditions appear to have established, that *Canada's Westword* will be able to establish itself and prosper.

In a sense, honourable senators, that says it all about what we are attempting to achieve with this bill. I honestly believe that if we reject this bill, then we are turning our backs on this kind of Canadian initiative.

Those who oppose the bill appear to have several main objections, the chief of which, I suggest, stems from a total misconception of what constitutes a Canadian magazine. I quote first my friend Senator Walker. I am sorry he is not here this evening. On March 3, Senator Walker said:

> What sort of news magazine would it be with 50 per cent of its content Canadian? There is not enough news in Canada to make 50 per cent of a magazine such as *Time* Canada.

Senator Smith (Colchester), who I am sorry is not here this evening, and who certainly has impressed us with his lucidity on a wide range of issues since he has been with us, disappointed me greatly when he said on March 11, with reference to *Time*:

> It did so—and to me this is a perfectly reasonable position to take—because it is a news magazine which draws on world news sources for its coverage. You cannot find 80 per cent of all the news in the world in Canada, no matter what the federal government says.

Of course, honourable senators, the federal government has said no such thing and I suspect my friend Senator Smith realizes that. Senator Walker went much further. He described *Maclean's* news magazine as "a farce."

I want to make it clear that I have no special brief for *Maclean's* magazine. Indeed, since its inception as a news magazine I believe I have been its most frequent target of

all honourable senators; possibly Senator Austin is the runner-up. I believe those are facts which might well cause Senator Walker to change his mind about *Maclean's* magazine. In any event Senator Walker's opinion of *Maclean's* being "a farce," I am frank to say, is an opinion which I do not share. In not sharing that opinion, I reject out of hand the automatic assumption that if something is Canadian, whether it is a television program or a magazine, it is automatically inferior. That is a proposition which I believe all honourable senators reject out of hand.

I have here an issue of *Maclean's* magazine, which I also purchased this morning. I do not apologize for saying—and I do so frankly—that I think it is an excellent news magazine. It is loaded with world news. Of course, there is more Canadian news than we used to read in *Time* Canada. There is more Canadian news, but it is also loaded with news of the world. The important point is that the news of the world is presented through the eyes of Canadian newsmen and reporters. I have said many times before, here and at other places, that *Time* has presented us each week with an excellent window on the world. I have also said that it has been a window on the world through American tinted glasses—a welcome window on the world, and one which is still available to us. What we will now have is a window on the world through Canadian tinted glasses. Meanwhile, far from being a farce, *Maclean's* is thorough. It is professional. It is Canadian. I do not think it has to take a back seat to any other news magazine in the world.

Senator Flynn: Does it need this bill?

Senator Davey: While I am referring to Senator Smith—

Senator Smith (Queens-Shelburne): Which Senator Smith are you speaking about?

Senator Davey: Senator Smith (Colchester). I apologize to Senator Smith.

Senator Flynn: Which one?

Senator Davey: This is your Senator Smith, Mr. Leader of the Opposition.

Senator Flynn: Is that your apology?

Senator Davey: In the debate on March 11 last, Senator Smith (Colchester) spoke about Senator Grattan O'Leary and his appearance before the Special Senate Committee on Mass Media, and said, quoting Senator O'Leary:

> I am not so sure that *Time* magazine today is not the best Canadian magazine we have.

Senator Smith (Colchester) then went on to say:

> Note that he did not say merely "the best magazine distributed in Canada," rather he said "the best Canadian magazine."

In response to that I can only quote an article from the October 1974 issue of *The Canadian Forum*. The article was written by Peter Newman but the quotation quotes a perhaps even greater authority, or at least as great an authority as Senator O'Leary. Peter Newman is writing about the O'Leary Commission, and says:

> I attended most of the Commission hearings and I remember best how Larry Laybourne, then managing director of Time-Canada, closed his submission with a humble little bow to the Commissioners and declared: "I invite the Commission to consider whether *Time* Magazine in Canada is not in all essential respects a Canadian periodical, having regard to the character and quality of its contents and the nature of its publishing operation." That was more than O'Leary could stomach. His Irish up, he telephoned Henry R. Luce and asked him to fly down from New York. On January 17, 1961, the mighty Luce mounted the witness-stand and made what remains the definitive statement on the Canadian status of *Time:* "I may be in some disagreement with my colleagues," he said, "But you said, sir, you want me to be very plain. I do not consider *Time* a Canadian magazine."

I hesitate to wade too deeply into the swamps of substantially the same, especially since I know this will be dealt with in some considerable detail by the committee. In discussing this bill and referring to the ownership and content requirements, Senator Hayden—I hope I quote him correctly—suggested, "One ain't good without t'other."

I think he is exactly correct, although I concede at once that Senator Hayden was making a far different point from the one I want to make. He was not speaking with obvious approval; I do. Without ownership requirements or without content requirements, this legislation will not work—that is to say, it will not even the competition thus creating the climate for a revitalized Canadian magazine industry. So, I agree with Senator Hayden, "One ain't good without t'other."

I do comprehend the concern some senators have about "substantially the same," but it is a concern that, while I comprehend it, I cannot share. Perhaps that is because I believe this bill is so important, and perhaps it is because I am not a lawyer. I certainly recall the words of Senator van Roggen in this debate when he said:

> What would constitute "substantially the same"? A good and difficult question, but not insoluble, because lawyers and courts in Canada have built up a body of law over the years on such words as "substantial," "undue," "reasonable," and so on. These are words regularly used in legal documents and agreements.

Senator Forsey made an inquiry last evening, and because of this I would repeat just a line or two of the speech I made when I introduced this bill. Referring to the Minister of National Revenue, I said:

> He has decided that the content of a Canadian magazine is not substantially the same as that of a foreign issue if the combined editorial and pictorial content is at least 80 per cent different. In my opinion any lesser percentage would allow foreign periodicals to continue to dump editorial material into Canada.

Honourable senators, for me the most perplexing argument of all those advanced against this bill, the one I find most difficult to deal with, is that it would be an irritant to the United States. Senator Cook, my friend who converses with me often in this chamber, even went so far as to talk about ultra-nationalistic madness. In all honesty, I think it is quite possible to be a Canadian nationalist without being either mad or anti-American. I see nothing strident in this quotation from the report of the Special Senate Committee on Mass Media, which I included in my speech on March 3:

> The United States happens to be the most important, the most interesting country on earth. The vigour and diversity of its popular culture—which is close to becoming a world culture—obsesses, alarms, and amuses not just Canadians, but half the people of the world.
>
> What we are suggesting is that the Canadian media—especially broadcasting—have an interest in and an obligation to promote our apartness from the American reality. For all our similarities, for all our sharing, for all our friendships, we are somebody else.

Honourable senators, I submit that is not ultra-nationalistic mass media nor is it strident anti-Americanism. Indeed, just the week before last the new United States ambassador to Canada spoke to the men's Canadian Club here in Ottawa, and I would like to read something he said in that particular speech. He said:

● (2050)

> The assertion of Canadian national purpose is not an issue between us. Americans understand and respect it. We expect you to be yourselves. We understand why you wish to diversify your foreign interests; we will cooperate with that effort. Few Americans who have dealt with Canada have ever doubted the separateness of Canadian interests and destiny.

I submit that the assertion of Canadian national purpose is what this legislation is all about. We need in this country our own native Canadian consumer magazine industry, and this is the only way in which we are going to get one.

In a similar vein several senators have said in the course of this debate that *Time* has enjoyed special status in Canada over a long number of years. I can only respond to that by saying that surely when the Government of Canada grants special privileges, it does not do so forever. It does not grant special privileges in perpetuity.

Now I want to say a word about *MD of Canada*, because I am always interested in what my friend Senator Sullivan has to say, and I have the greatest respect for the honourable senator, as he knows. I have some sympathy for his view on this particular issue. I would just like to point out that in a letter dated February 2, 1976, and addressed to members of the other place, *MD of Canada* claims that it "offers no competition to any other journal or magazine directed exclusively to physicians in Canada."

I should have prefaced my remarks by pointing out that *MD of Canada* is owned by MD International Inc., 30E. 60th St., New York. This assertion that it offers no competition to any other journal or magazine directed exclusively to physicians in Canada is correct, because indeed there is little competition in such a highly specialized market and the publication *MD of Canada* is unique. It therefore cannot be duplicated easily by a Canadian publisher. But for this very reason, coupled with the fact that *MD of Canada* is delivered free of charge to 25,000 members of the medical community in Canada, thus providing its advertisers with a captive and sure market, it is the government's contention that *MD of Canada* could continue its operation in Canada without a special tax status and without any serious negative effects. Of course, the government would welcome any decision by *MD of Canada* to completely Canadianize its operation, as required by law.

[Senator Davey.]

Senator Flynn: Are you prepared to buy it?

Senator Davey: But should it choose not to do so, it would most likely not preclude its availability or operation in Canada. I am sorry, Senator Flynn, I did not hear what you said.

Senator Flynn: I asked if you were prepared to buy the controlling interest?

Senator Davey: I am not in a position to buy magazines. I wish I were.

Senator Flynn: I am afraid nobody is.

Senator Davey: Now I want to turn to the bill's broadcasting component, because the broadcasting component is every bit as important as the magazine component. I think the concern expressed in this debate about the bill as it relates to broadcasting can be distilled down to two points. One is as to whether the legislation is really necessary, and the second is as to why there should be an open mandate for the date of implementation. Well, in my judgment the bill is necessary and it requires very early implementation. Let me say at once that I do share the concern of some honourable senators about the uncertainty of the date of implementation. In this connection our friend Senator Hayden made a very practical suggestion, although I would prefer that the date of implementation, as far as broadcasting is concerned, should be the date when the bill receives royal assent. There is absolutely no reason that I can see for any delay.

Let me remind you about this part of the bill and what it is about. An estimated $20 million advertising revenue, which is growing at a rate of 15 per cent per year, is spent by Canadian advertisers on American television and radio stations. Thus these American stations derive this revenue from a market they were not licenced to serve, and at the expense of Canadian stations playing under altogether different and more stringent ground rules. In the words of the Canadian Association of Broadcasters, which is the association of all private broadcasters in Canada today, the competitive gap continues to widen as the American stations do not have the same economic requirements as Canadian stations which carry high-cost Canadian content or are liable to the regulations or supervision of the CRTC pursuant to the Broadcasting Act. Thus the United States stations are able to sell more competitively in Canada because they are able to purchase their products without taking into account the Canadian market and have no responsibility under the Broadcasting Act to internally cross-subsidize the development of Canadian content programs as required by the CRTC. What started as a soft spot in the underbelly of Canadian broadcasting turned into a commercial tumour, and has been transformed into an economic cancer of some $20 million annually. These U.S. television stations have been able to attract increasing volumes of Canadian advertising dollars thereby inhibiting the growth and diversity of Canadian television outlets. This loss or spill-over has resulted in a reduction in programming choice, and economic barriers to providing new job opportunities for creative Canadian and higher quality Canadian programming.

In this debate, honourable senators, our friend Senator Hayden asserted that Canadian television stations are either all sold out or simply not commercially attractive. I

want to quote Senator Hayden from the debate here on the evening of March 9, when he said:

> I can tell you that a difficulty we have now in respect of the Toronto stations is that most of them are sold out to the end of 1975, according to the latest figures I have from Statistics Canada. I have here a list of prime time availabilities, and I believe prime time is from 6 p.m. to 12 p.m. It shows CTV as sold out until May 1975; CFTO, sold out until April (85 per cent sold out for entire 1975); CHCH, most shows sold out until January 1975; CHUM, sold out until end of December 1974.

Now, honourable senators, I am sure that there is only one thing in the entire world that I know as much about as my friend Senator Hayden, and that happens to be broadcast advertising because I spent eleven years in the business. So with the greatest of respect to Senator Hayden, I should like to comment on his assertions in this chamber on March 9. First of all he says he got his statistics from Statistics Canada. Statistics Canada, to the best of my knowledge—and I checked this out—does not collect such information. He included CTV as a Toronto station. Well, of course, CTV is not a Toronto station. It is involved in selling network time across the country and should not be considered as belonging exclusively to the Toronto market. He made reference to CHUM, implying that it is a television station. CHUM is, of course, a radio station.

As to the question of popularity in the Toronto market, it is interesting to note that the January Bureau of Broadcast Measurements Survey reports that the prime time for the 7 to 11 p.m. Monday to Friday share of audience is as follows:

		PERCENTAGE
CFTO		16
CHCH—	Hamilton	15
WKBW—	Buffalo	15
CBLT—	The CBC station	14
WBEN—	Buffalo	11
CKGN—	A new Canadian station—The Global network	10
WGR—	Buffalo	10
CITY—	An independent Canadian station	3
WUTV—	The educational station—Buffalo	2
All others		5

For the period from 4 to 11 o'clock for the TV audience share in the fall, according to the Bureau of Broadcast Measurement, the figures were:

	PERCENTAGE
CFTO	20
WKBW	14
CKGN— The new station Global, along with CHCH and CBLT	12
WBEN and WGR—Buffalo stations	10
CITY	6

The point I want to make is that in terms of straight audience share, the Canadian stations in Toronto are extremely competitive and the new ones are working very hard indeed. No mention was made by Senator Hayden or other senators about advertising in other than the 7 to 11 o'clock period at night. And, of course, for many small advertisers this time could be more cost-efficient.

● (2100)

The simple fact is that Canadian stations have a large inventory of time available and the competition is keen. Indeed, this very night CITY television has an exclusive sports scoop in the Toronto area. It is the only station which is carrying on television the first game of the playoffs between the Pittsburg Penguins and the Maple Leafs. So there is not much doubt that this new station, CITY, will undoubtedly have the largest audience in Toronto tonight and, probably, the largest audience that it has ever had in its history.

Turning to the points made by Senator McIlraith and Senator Manning, it is true that the Association of Canadian Advertisers and the Institute of Canadian Advertising, which is the association of advertising agencies, have opposed this legislation, both as it relates to broadcasting and to magazines. But these exact same people using the exact same words, almost the identical legislation, were just as stridently opposed to the CRTC's Canadian content regulations for television and radio, Canadian content regulations which have by any standard been remarkably successful without jeopardizing one bit the members of the Canadian advertising industry. Incidentally, I share Senator Hayden's enthusiasm for the CRTC, which I was delighted to hear him declare in the course of this debate. I would remind Senator Hayden and all other senators that the CRTC has requested this specific legislation on broadcasting. Indeed, I should like to quote the Chairman of the CRTC, Mr. Harry Boyle, who was speaking to the Canadian Club in London, Ontario. This is a précis of his speech as it appeared in the *Financial Post*. In my opinion he makes the point extremely well.

Senator Flynn: What date is it?

Senator Davey: I am sorry; it is a recent issue, but I do not have the date.

Senator Flynn: Was Mr. Boyle chairman at the time?

Senator Davey: Yes. This is since he became chairman. I will obtain the date for you. Speaking to the Canadian Club in London, Ontario, he said:

> Let's go back to the $20 million of advertising solicited by American border stations in Canada. In 1974 our total TV advertising revenue was only $225 million.
>
> If the reverse situation were true and Canadian stations were placed advantageously close to the border of America's largest cities, that 10 per cent would amount to $485 million. But what happens when we do nudge up to an American metropolis? Take Detroit, for instance.
>
> Well, the Americans know how to look after their own. When Canadian networks buy American programs they are not allowed to schedule them in Windsor. The Detroit market is protected.
>
> Not so in other centres because the American outlets are up alongside the larger Canadian population centres.
>
> Ninety per cent of the revenue of a station on the border in Washington State comes from Vancouver. The revenue may well be $9 million—$9 million extracted from Vancouver by a station in a small city

or overgrown town of 35,000 people with absolutely no responsibility to the Canadian system.

As for those border stations which are now prepared to do all kinds of wondrous things for us on this side of the border, I simply think they underscore the fantastic bonanza they have reaped from Canada. I honestly do not think we want this kind of patronizing tokenism. We want to do it ourselves and I believe we can if the competition is even.

Finally, I believe that honourable senators, given the flow of this debate, will be interested in this item which was aired recently on CBC Capital Report. The speaker was Barrie Zwicker, who is editor of *Content*, which is a publication aimed at journalists in this country. Some senators may have heard this on the program Capital Report:

> While the editorial writers were painting Canadian magazine publishers as heavies greedily dedicated to legislating their innocent competitors out of existence, I happened, as editor and publisher of a journalism review, to notice that very few Canadian magazine publishers ever got their say in the news columns either.
>
> So I began an analysis. I clipped out very nearly every bit of coverage of the magazine controversy from one of the country's best papers, the Toronto *Globe and Mail*, for a 20-month period from mid-March 1974 to mid-November 1975. The results illustrate one major reason most people see the whole issue in a distorted way.
>
> In the 20 months there were 43 news stories, about 25 letters to the editor, seven editorials and 10 signed opinion columns, totalling 1,065 column inches.
>
> When a story contained absolutely no statement from any spokesman for any Canadian magazine or magazine association, I classified it as unfair to Canadian magazines. If a story contained any comment from a Canadian publisher or association—even one sentence—I generously classified it as fair. If it fitted neither category, neutral.
>
> Remember, this particular analysis had nothing to do with whether I agreed or not with any of the information. I was only looking at the basic unquestioned norm of journalistic fairness, namely, getting both sides of a story.
>
> The findings: 180 column inches fair; 177 inches neutral; and a staggering 708 column inches—or 66 per cent—of stories and comment in the *Globe and Mail* on the Canadian magazine issue carried not one word from anyone representing Canadian magazines.
>
> The *Globe and Mail* reporter, who over this period wrote by far the most stories on the topic, not once in the 20 months so much as phoned the Canadian Periodical Publishers Association, just a few blocks from his office on the same street. When another *Globe* reporter interviewed Ralph Davidson, president of *Time* Incorporated, in his New York office, Davidson was not asked a single hard question. Indeed, he apparently was not asked any questions at all. He just talked and said, by the way, that those Canadians who did not agree with *Time's* stand on Bill C-58 are "a pain in the ass."
>
> If Bill C-58 passes and is implemented, it will be despite a million-dollar lobby by the two foreign magazines which have—in a classic example of propaganda turning things on their head—successfully portrayed themselves as the underdogs. In other words, if C-58 passes, it will be despite massive misrepresentation by this country's press. A thoughtful citizen should worry. The Canadian magazine industry may be entering an era in which the competition is a bit less grossly unfair than it has been. But the citizen is still being informed by a press which on many important national issues does not observe even the most elementary standards of fair reporting.

[Senator Davey.]

As I say, that was the editor of *Content* magazine speaking on the CBC.

Honourable senators, I appreciate your patience. I now move that we give this bill second reading, agreement in principle, and then refer it to the Standing Senate Committee on Banking, Trade and Commerce, where I know it will receive a thorough and fair hearing.

The Hon. the Speaker: It is moved by the Honourable Senator Davey, seconded by the Honourable Senator Lang, that this bill be now read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Since there appears to be some uncertainty, those in favour of the motion will please say "yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: Those against the motion will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "yeas" have it.

And more than two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

• (2120)

Motion of Senator Davey carried on the following division:

YEAS
HONOURABLE SENATORS

Argue	Eudes
Austin	Forsey
Benidickson	Fournier (Restigouche-Gloucester)
Bourget	
Buckwold	Fournier (de Lanaudière)
Cameron	
Carter	Giguère
Cottreau	Godfrey
Croll	Goldenberg
Davey	Graham
Denis	Lafond
Duggan	

Langlois
Lefrançois
Lucier
Macnaughton
McDonald
McElman
McGrand
Michaud
Molgat
Neiman
Norrie
Petten
Riel
Riley
Robichaud
Rowe
Smith
(Queens-Shelburne)
Sparrow
van Roggen—40.

NAYS

THE HONOURABLE SENATORS

Choquette
Cook
Desruisseaux
Flynn
Grosart
Macdonald
McIlraith
McNamara
Phillips—9.

The Hon. the Speaker: I declare the motion carried.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Davey moved that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

PROVINCE OF NEW BRUNSWICK

ECONOMIC CONDITIONS—DEBATE CONCLUDED

The Senate resumed from yesterday the debate on the inquiry of Senator Michaud calling the attention of the Senate to certain economic conditions existing in the Province of New Brunswick.

Hon. Gildas L. Molgat: Honourable senators, my comments on this inquiry will be brief. My reason for wanting to say a few words on this subject is not that I am an expert on conditions in New Brunswick but that this particular motion is an example of what an honourable senator and the Senate can do. This is a perfect example of the kind of thing that we as senators can do for the good of our country, and I wish to compliment my colleague, Senator Michaud, in this regard. He knows the problems of Kent County particularly, and has brought those problems to the attention of the Senate.

No doubt other senators are not as fully conversant with the problems existing in that area, but they recognize that we have before us a problem that occurs in other parts of this country. It certainly occurs in the marginal territories of my province, and I suspect it occurs in most provinces. I am referring to the problem of the small farms, the depopulation of the rural areas, the imbalance that we find between the need for agricultural production and the fact that agricultural land is not being used in a productive way.

This is the kind of action that the Senate can undertake. As I have said, I am not an expert on the problems of Kent County, but I consider it important that we recognize here the type of investigation that the Senate can undertake to the great benefit of Canada. It is the type of investigation, I suppose, that no civil service will undertake, because civil servants are busy with their day-to-day problems, the administration of their departments, and so on. It is difficult for them to undertake the type of investigation that we should be making more frequently. I could certainly mention many areas in my own province which could be benefited by a Senate study.

I look forward to the report of the Standing Senate Committee on Agriculture in Kent County and would urge the committee—and I am a member of that committee—to present its report at the earliest possible date, following which we can proceed to investigate other areas of particular need.

The Hon. the Speaker: As no other honourable senator wishes to participate in the debate, this inquiry is considered as having been debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, April 7, 1976

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

Prayers.

THE LATE HONOURABLE M. GRATTAN O'LEARY

TRIBUTES

Hon. Raymond J. Perrault: Honourable senators, it is with a very heavy heart and deep regret that I rise to announce officially to the Senate that we have lost one of our esteemed colleagues. The Honourable Michael Grattan O'Leary died this morning. His passing was, of course, expected by his many friends in this chamber, by his family and, certainly, by himself, but the courage he displayed over the past months has been remarkable, consistent with his incredible, indeed indomitable, spirit.

We shall miss his great qualities and abilities in Parliament, his great and infectious spirit, which refused to concede that any situation, any human condition, was beyond hope. We shall miss his sense of humour; his wit was brilliant and infectious, but never cruel or unkind. He possessed a remarkable understanding of this nation and its people. He was a confirmed optimist in every sense and his personal knowledge of Canada's political history, indeed his participation in that history, was of great value to his modern-day contemporaries of all parties, who were reassured regularly by him that in the context of history today's problems may be difficult, but not beyond resolution. It was well said of him on another occasion:

> He believed that democracy's victories are never final, that history is a perpetual recommencement, and that life at best is a hard campaign with some lost battles.

That has been his spirit in journalism, in politics, and in human affairs.

Grattan O'Leary was a great Progressive Conservative, a great Tory, a great orator, a great journalist and a great Canadian. This chamber, and indeed this country, will not soon see his like again.

To the members of his family, our hearts go out today in their great sorrow.

Hon. Jacques Flynn: Honourable senators, you will understand that I rise today under the stress of great emotion, to mourn the passing of a colleague and a friend, one of the most illustrious members the Opposition side of this chamber has ever known, Michael Grattan O'Leary. Grattan O'Leary was not only a man but a veritable institution. He had been on this Hill in various capacities as reporter, editor, and senator for some 65 years.

He and I had what I considered to be many things in common, which objectively may not be too important to all honourable senators but which were important to me.

Grattan O'Leary was born in Percé, Quebec—the beautiful village of Percé—the place where my grandfather was born. He was an Irishman, and I am partly Irish, though my Irish temper was nothing compared to his.

A member of the Conservative Party in the province of Quebec, he ran for Parliament in 1925 in the riding of Gaspé and was defeated. It took a great deal of courage to even be a Conservative in Quebec at that time, let alone run for Parliament. But courage was characteristic of this man; he exhibited exemplary fortitude many times during the course of his lifetime.

He was a giant amongst journalists. At one time I, too, looked forward to a career in journalism, but I was never able to muster the drive and determination required. These qualities Grattan O'Leary had in abundance. To pursue his career in journalism he came to Ottawa from the small village of Percé, with three years of formal schooling and a gift for words enhanced by long hours of reading by candlelight. This was a brilliant man, a man of the people, a man who considered anger had a cleansing influence and used it frequently and skillfully to decry that which was sham and dishonest.

As was mentioned by the Leader of the Government, Grattan O'Leary was one of Canada's greatest orators, and we in the Senate had the privilege of listening to some of his most excellent addresses. I well remember the speech he gave at a dinner organized in his honour last year. It was a speech which many of us who were present will never forget.

Grattan O'Leary was a crusader, a man who fought for what he thought was right regardless of the odds. He was admired and respected because he was fair and honest. He spoke forcefully but never without having first done his homework. He merited fully all the respect and admiration people had for him. He had been entrusted by God with singular gifts and he used them well.

[*Translation*]

Grattan O'Leary was one of my heroes when I was young, and even in later years. In addition, I well remember how, when I decided to run as a candidate in the riding of Quebec-Sud, he encouraged me; later, when I arrived here in Ottawa, he never failed to give me his wholehearted support and most comforting advice. He had panache. He leaves the memory of an outstanding man.

His family knows beyond a doubt, I am sure, that in the Senate there is no one who does not share in their grief as do all Canadians.

[*English*]

Hon. Léopold Langlois: Honourable senators, I would be remiss in my duty if I did not join in the tributes being paid to our departed colleague, Senator O'Leary. As honourable senators are aware, Senator O'Leary was born on the Gaspé coast in the small but beautiful village of Percé, which forms part of the riding of Gaspé, which I had the honour of representing in the other place for some twelve

years. On the Gaspé coast, Senator O'Leary was known and respected as a true and great Canadian.

● (1410)

[*Translation*]

Senator O'Leary was of Irish descent, as has already been pointed out, and out Gaspé way, in the Gaspé peninsula, he had countless friends. He was a Conservative in politics, but had everyone's respect.

Senator Flynn told us a while ago that he had been a guide for him, a model to emulate; for me, who was of another political hue, he was also a guide and an example which I have always endeavoured to follow, though he stood head and shoulders above me. Still, in political life as elsewhere it is good to have personalities who, like him, impress you, give you an ideal which you strive to follow. Of course, you cannot hope to really follow them, or catch up with them, or attain their height, but still it is well and good to have before you someone who can encourage you to become a better Canadian. Senator O'Leary had all those qualities.

We, from Gaspesia, loved him and worshipped him. Today we join his colleagues in this chamber, in conveying to his family and his many Gaspesian friends our deepest condolences.

[*English*]

Hon. John J. Connolly: Honourable senators, I believe everyone who ever knew Senator O'Leary has a pleasant story to tell about their relationship. This is perhaps a measure of the man, because he had a great capacity for friendship.

First of all, he was a great journalist. Some of the best traditions of the press gallery of this Parliament have been fostered and developed over the years by the work that Grattan O'Leary did there. This may be recognized by the fact that in the Hall of Honour between the two houses, three journalists are commemorated there by having their faces carved in stone. One is Charlie Bishop, a former colleague of ours; another is Henri Bourassa, not only a journalist originally and later, but also a great parliamentarian; the third is Grattan O'Leary.

He was great in the parliamentary press gallery. I believe one of his great achievements was the work he was able to do as editor of the Ottawa *Journal*. That work made the paper one of the most widely read and one of the most respected sources of editorial opinion in this country. He used to say that between elections he wrote in a detached manner but when it came to election time that was when he really pulled out the guns and fired them at the Grits.

His life in the parliamentary press gallery gave him an appreciation of Parliament. That, too, is a legacy which he leaves to this country and to this Parliament. He knew his leaders from Borden through Meighen through Bennett to Diefenbaker. He knew them well. If, perhaps, he had an idol among them, it would have been Mr. Meighen.

Senator O'Leary's speeches in this chamber and, indeed, outside this chamber for many years have reflected his interest in Parliament, in the people of Parliament, and in the traditions of Parliament. Senator Macnaughton reminds me that he was particularly active after he came here in the work of the Canada-U.S. Committee. He did a great deal for the fostering of good relations between members of the Congress on the one part and the members of Parliament on the other.

His parliamentary interest was not confined to this country. We have heard his speeches here about Victorian politics, about the Gladstonians, about Morley, about Disraeli, and Justin M'Carthy, a member of the British House in those days, and also the historian of the period, was one of his very favourite authors. But he would talk about the Irish leaders in the British house, about Tim Healy, about Parnell and about John Redmond. He knew these men. He had met them. He had untold admiration for them and he knew as much about Irish literature and Irish poetry as they did.

Grattan O'Leary was a man of happy disposition, but he had experienced deep sorrow. I can recall, although it is a long time ago now, how deeply affected he was at the death of his son Owen, who was killed when flying with the Royal Canadian Air Force on a mission over Germany. The awareness of that tragedy remained with him for many a year. Again the loss of his wife Molly, a little over ten years ago, also affected him deeply. We will not soon again in the Senate see the like of Grattan O'Leary. I can but say, "God rest him," and simply thank heaven for the kind of memories we have of him.

Hon. Allister Grosart: Honourable senators, as has been said, this is a sad day for the Senate, for the Parliament of Canada, for Canada, and perhaps most of all for those of us, many of us, who knew Grattan O'Leary personally, intimately and who admired and loved him.

As I came into the chamber today I looked immediately to the vacant seat behind me where I had sat for ten years as Senator O'Leary's deskmate. Those were my first ten years in this place and his first ten years. It was a privilege for which I am grateful. It was not only a privilege, it was an honour, and certainly an education and an unforgettable experience. It was a decade of my life, distinguished particularly by the richness of the friendship which he was generous enough to extend to me. Yes, I look at that vacant seat of his because he said to me that he hoped that the other vacant seat, the one which I had occupied, would not be filled immediately; and I am touched by that memory.

I look, too, at the press gallery. It is hard to believe that Senator O'Leary sat there 65 years ago. He recalled it often with some amusement. He first came to work for the Ottawa *Journal* in the year 1911, and he reported from our gallery the famous debate on the Navy bill of 1912. As has been said, it was 50 years ago that he ran as a candidate for the Conservative Party in Gaspé. Those two dates recall to all of us the length of his most distinguished career.

● (1420)

In subsequent years, all the honours that any could wish came to him: degrees from many universities, his place in the newspaper Hall of Fame and his rectorship of Queen's University, among others; but I think what will distinguish Gratton O'Leary in the history of Canada more than anything else, perhaps, is that there was no other Canadian that I can think of who had the confidence of so many of our great political leaders over the years, regardless of party, and particularly of the long succession of Prime Ministers who occupied that high office during his lifetime and during his journalistic days here in Ottawa. He would tell stories of conversations with Prime Ministers of the

party he opposed, and the confidence which they placed in him always seemed to me to be the most remarkable thing that I have ever known about any man.

Personal memories, of course, crowd in at this time. He and I had much in common. Like Senator Flynn, I was also a young, ambitious journalist when Grattan O'Leary was already recognized as one of the great leaders of that profession. As the years went on we developed a common interest in politics, but perhaps my deepest memories of him would be in connection with the common interest we had in literature, history and, perhaps above all, poetry. In my personal recollection, Grattan was at his very best when he was relaxing with a drink in one hand and a book of Irish poetry in the other. I remember his saying to me, when he was reading Yeats one night, "Well, one day I will go to the Land of Heart's Desire. Do you remember the poem?" I said, "I think so." I looked up this poem this morning when I heard of his passing, and I can say that he has gone, in the words of Yeats' poem "The Land of Heart's Desire," to:

> The land of faery,
>
> Where nobody gets old and godly and grave,
>
> Where nobody gets old and crafty and wise,
>
> Where nobody gets old and bitter of tongue.

I recall the evening when he called me up and said, "I want you to get out here as soon as you can, Allister. I have something important to say to you." What he had to say to me on that occasion was that he had just received the news of the affliction which has finally taken him from us. He said, "I want you to be one of the very first to know. I don't want you to be sad, but I'm going before very long." He then said, "You know, it's quite a coincidence. I've just finished reading the last volume of Sean O'Casey's autobiography, *Sunset and Evening Star*. I've just put it down. This is how I'm going." He then read it to me, from this very volume that I hold in my hand. Perhaps honourable senators will permit me to read it, because they are his words—certainly his words to me—and I believe his words to all those who would mourn him at this time.

This is the way Grattan saw his going:

> Even here, even now, when the sun had set and the evening star was chastely touching the bosom of the night, there were things to say, things to do. A drink first! What would he drink to—the past, the present, the future? To all of them! He would drink to the life that embraced the three of them! Here, with whitened hair, desires failing, strength ebbing out of him, with the sun gone down, and with only the serenity and the calm warning of the evening star left to him, he drank to Life, to all it had been, to what it was, to what it would be. Hurrah!

As I think of him at this moment, honourable senators, that word "hurrah" typifies to me so much of his life, and certainly the courage with which he faced those last terrible months. Not many of us saw a great deal of him in the last few weeks. He had wasted away to perhaps no more than 70 pounds. But when I would bring him greetings from his colleagues in the Senate, he would say, "I want them all to remember me as I was," and so, honourable senators, I am sure we shall.

[Senator Grosart.]

I am sure it would be the wish of all honourable senators that I should on your behalf extend at this time our condolences to those of his immediate family that he leaves behind, to those he loved—his daughter, Moira, the wife of a former member of Parliament, the Honourable Frank McGee, and a former member of the Cabinet, and to his sons Maurice and Dillon. I know something of the sorrow that they are feeling at this time. I would want them to know that there are many who loved Grattan O'Leary as they did and who share with them their sorrow on this occasion.

[*Translation*]

Hon. Paul Desruisseaux: Honourable senators, as a French-speaking senator and former colleague of Senator O'Leary in journalism for twelve odd years before being appointed to the Senate, I would like to join in the eloquent eulogy pronounced by the previous speakers.

Senator O'Leary had the gift to make friends, and throughout his life he never stopped gaining new ones.

We saw him at work here stating the views in which he believed always in a very constructive manner. He developed his thoughts which he sincerely believed to be solutions to the many problems we must tackle.

For over fifty years he was devoted to the Ottawa *Journal*, which became, as noted earlier by Senators Flynn and Connolly, a great newspaper with much appreciated editorials. It was mostly his work. Fifty years are not easy to forget. In 1963 he retired after 52 years to assume the presidency and the editorship of the paper.

Unfortunately here in this house we had him for only 14 years. However, his contributions, as I said, were outstanding. His literary qualities have hardly been equalled in the Senate history. His judgment was something remarkable. His friendly relations with his colleagues and with us Francophones were also worth remembering. He understood, in the course of his long career, the problems of our country, the Canadian problems.

I can only echo the eloquent tribute paid to him and convey to the members of his family our most sincere condolences.

[*English*]

DOCUMENTS TABLED

Senator Perrault tabled:

> Report of the Department of Communications for the fiscal year ended March 31, 1975, pursuant to section 6 of the Department of Communications Act, Chapter C-24, R.S.C., 1970.
>
> Capital Budget of the Farm Credit Corporation for the fiscal year ending March 31, 1977, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-724, dated March 30, 1976, approving same.
>
> Financial statements of the National Harbours Board, together with the Auditor General's report thereon, for the year ended December 31, 1975, pursuant to section 32 of the National Harbours Board Act, Chapter N-8, R.S.C., 1970.

Report of the Canadian Turkey Marketing Agency, together with financial statements and the auditors' report thereon, for the year ended December 31, 1975, pursuant to section 31 of the Farm Products Marketing Agencies Act, Chapter 65, Statutes of Canada, 1970-71-72.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1) (*a*), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting today, and that Rule 76(4) be suspended in relation thereto.

Motion agreed to.

● (1430)

EXTERNAL AFFAIRS

REFUSAL BY PASSPORT OFFICE TO ACCEPT $50 AND $100 BILLS—QUESTION

Senator Sparrow: Honourable senators, I have the following questions for the Leader of the Government in the Senate:

1. Is it a policy that the passport office of the Department of External Affairs in Ottawa does not accept $50 and $100 denominations of Canadian currency bills for payment of services in the issuing of passports?

2. What are the reasons for not accepting this Canadian currency?

3. Who is responsible for establishing such a policy?

4. Are there other government departments which abide by the same policy and refuse to accept Canadian currency?

5. If such a policy was established because of the danger of receiving counterfeit currency, does the government recommend that no Canadian firm or individual accept such currency?

Senator Perrault: Honourable senators, I shall be pleased to take that question as notice, and endeavour to obtain a reply.

ENERGY

PROPOSED CONSTRUCTION OF PIPELINE FROM PRINCE RUPERT TO EDMONTON—PROPOSED PIPELINE TREATY BETWEEN CANADA AND THE UNITED STATES—QUESTIONS AND ANSWERS

Senator Austin: Honourable senators, I have a question for the Leader of the Government on a matter of considerable urgency. Its focus at this moment is in British Columbia, although its effect seriously relates in one way or another to the whole of Canada. Notice of this question was given to the leader this morning.

I refer to the serious examination now under way by private interests, controlled in part by United States investors, into the possibility of using Prince Rupert as the major landing port for Alaska oil bound for mid-western United States markets. What is being considered is the construction of an oil pipeline east from Prince Rupert, across British Columbia, and finally to Edmonton to join the presently existing Interprovincial pipeline which carries Alberta crude oil to the United States and central Canada. The cost of new pipeline construction including looping of existing facilities could easily exceed half a billion dollars.

I ask the following question of the government: Is the government prepared, as it did on August 13, 1970, with respect to oil and gas pipelines from the Arctic, to make a policy statement as to whether it favours in principle the construction of this essentially United States pipeline across more than half of Canada, and, if so, what terms would the Canadian government require to protect Canada's essential interests, including environmental and security of supply considerations?

In addition, would the government leader advise the Senate whether the present draft of a proposed pipeline treaty between Canada and the United States would allow Canada to request and obtain assured and reasonable-cost oil supplies from Alaska production in payment, or part payment, for any permission for such a pipeline to be built on Canadian territory?

Senator Perrault: Honourable senators, I appreciate very much Senator Austin's giving me prior notice of this question.

Senator Flynn: Yes, I can appreciate that also.

Senator Perrault: I have two rather brief replies.

Senator Austin asks: Is the government prepared, with respect to oil and gas pipelines from the Arctic, to make a policy statement as to whether it favours in principle the construction of this essentially United States pipeline across more than one-half of Canada?

I can only answer that question by saying that we must wait for the application to the National Energy Board, where the merits of the application will be considered.

Secondly, Senator Austin asks: Would the government leader advise the Senate whether the present draft of a proposed pipeline treaty between Canada and the United States would allow Canada to request and obtain assured and reasonable-cost oil supplies from Alaska production in payment, or part payment, for any permission for such a pipeline to be built on Canadian territory?

The answer is that the pipeline treaty has not yet been ratified by the two governments, so it would be presumptious to make any kind of prediction at this time. Each pipeline proposal will have to be established under a protocol arrangement which spells out the terms of any such arrangement.

CONSTRUCTION OF ARCTIC GAS PIPELINE—SUPPLY OF ARCTIC GAS TO SOUTHERN CANADA—QUESTION

Senator Austin: Honourable senators, I have an additional question to ask the Government Leader relating to one aspect of government policy on the construction of an Arctic gas pipeline, that of the available time to the government and to the country in which to make a decision whether to supply Arctic gas to southern Canada.

I ask the government this question because I believe there is considerable public misunderstanding about the Canadian supply-demand situation as it affects the need to build an Arctic gas pipeline and, if there is such a need, the timing of introducing Arctic gas supplies to the rest of Canada.

Will the Minister of the Crown in the Senate advise this chamber, and the Canadian people—courtesy of Canadian Press—whether the government sees any reason at this time why it should not await in due and reasonable course the advice of the Berger Commission of Inquiry and of the National Energy Board as to whether and when and on what terms and conditions a natural gas pipeline from the Arctic might be built? Put another way, is there such a gas supply shortage looming in southern Canada that the Government may not be able to await the normal course of receiving these reports before feeling compelled to take action?

Senator Flynn: A very good speech.

Senator Perrault: Honourable senators, I must take that question as notice. I do not have a reply to that particular question at my desk.

Senator Grosart: Whether it was a threat, or a question.

● (1440)

COMPENSATION FOR FORMER PRISONERS OF WAR BILL

SECOND READING

Hon. Chesley W. Carter moved the second reading of Bill C-92, to provide for compensation for former prisoners of war and their dependants and to amend certain other statutes in consequence thereof.

He said: Honourable senators, every once in a while we are presented with a piece of legislation which members of the House of Commons and senators of all political persuasions can support with great pride and pleasure. Such a measure is Bill C-92, which is now before us.

I find particular pleasure in having the honour to introduce the bill, because I know from personal knowledge that it is a culmination of efforts put forth by veteran organizations, members of Parliament in both houses and of all parties, and by the Commons Committee on Veterans Affairs. As a matter of fact, Bill C-92 embodies almost completely the recommendations of that committee.

I should like to begin my introduction by calling attention to the title of the bill, as it appears on page 1, and also to the short title in clause 1. The title of the bill is:

> An Act to provide for compensation for former prisoners of war and their dependants and to amend certain other statutes in consequence thereof.

For the short title, clause 1 says:

> This Act may be cited as the Compensation for Former Prisoners of War Act.

I should like to focus attention for a moment on the word "compensation" as distinct from the word "pension". Under the Pension Act, entitlement to a disability pension is dependent upon the presence in the veteran of a medically recognizable or identifiable disability, and the amount of pension is based on an assessment of the proportion of that disability which can be attributed to military service. Thus a person may be 100 per cent disabled, but if only 50 per cent of that disability can be attributed to his war service he would be entitled to only a 50 per cent pension. Prisoners of war who have medically identifiable disabilities receive their disability pension in the normal way, the same as any veteran who was wounded on the field of battle or suffered injury during his military service.

As time went on, certain disabilities began to show up in prisoners of war as a group rather than as individuals. For example, in comparison with the population generally it became noticeable that the rate of suicides was greater than in the population as a whole, the rate of depression was greater, and the ability to carry on or to concentrate on work was much less. Many other characteristics showed up in this group of prisoners, which distinguished them from the population as a whole.

One must assume that those disabilities can be attributed to the kind of treatment a prisoner had to undergo, because a prisoner in a prisoner of war camp received very different treatment from that received in a civilian jail. Prisoners of war had to endure inadequate food, exposure, severe physical abuse, and, most of all, emotional torment and shortened life span. Lack of food gave rise to a disease called avitaminosis, about which medical science knew very little at the time. It was very difficult to diagnose because it produced different effects in different individuals. In fact, we know very little about it even today.

As a result, a new principle was introduced in the form of compensation for prisoners of war who had as individuals no identifiable or medically recognizable disability but who fitted into the characteristics of a group such as the Hong Kong prisoners. It was called compensation as distinct from a disability pension.

It will be recalled that in 1971, five years ago, Parliament passed legislation granting a blanket assessment of 50 per cent compensation to all prisoners of war who had been incarcerated by the Japanese for at least 12 months. That legislation presented some problems because of the ceiling of 50 per cent. For example, a prisoner of war who had a medical disability of 10 per cent could receive only 40 per cent compensation because he had been a prisoner of war; a prisoner of war who had a medical disability of 40 per cent would receive only 10 per cent compensation for his experiences in the prisoner of war camp; and a prisoner of war who had medical disabilities and entitlement of more than 50 per cent received, of course, no compensation at all.

With respect to prisoners of war, Bill C-92 does three things. It corrects the anomaly to which I have referred in connection with prisoners of the Japanese, which caused injustice to those who, despite their medical disabilities, cannot receive more than 50 per cent. I might point out that the 50 per cent figure was chosen mainly to protect the widows of prisoners who had already passed on, because under the Pension Act payment is made at the nearest round figure, so that a veteran with a 48 per cent disability would receive a pension at the 50 per cent rate, and the widows of pensioners at the 50 per cent rate would receive the pension as a matter of right. However, if the disability was under 50 per cent, they would receive it at the discretion of the Pension Commission, and would possibly

receive a widow's allowance rather than a widow's pension.

As I have said, Bill C-92 does three things. First, it corrects this anomaly, in cases where a pensioner is in receipt of both compensation and a disability pension, so that the two can now be added together. If a person has a 40 per cent disability, he can receive another 50 per cent compensation, which would increase his total to a 90 per cent assessment. The maximum figure in the bill is 100 per cent. No veteran can receive more than 100 per cent.

Further, the bill creates a second group—those who were prisoners of war of the Japanese for less than a year. We do not know whether there are any in this group. Under existing legislation, a veteran who was a prisoner of the Japanese for less than 12 months would not be covered. Under Bill C-92 he is covered in a partial manner, to the extent of 50 per cent if a prisoner for more than one year, and 20 per cent for over three months but less than 12 months.

● (1450)

This bill also extends the principle of compensation to prisoners of war held by the European powers and by Korea, but again on a smaller scale. The scale provided in the bill is 10 per cent in respect of a prison term of over three months and less than 18 months; 15 per cent in respect of a prison term of from 18 months to 30 months, and 20 per cent in respect of a prison term of more than 30 months.

Honourable senators, Bill C-92 is further recognition of the debt of gratitude owed to those who gave of their health and strength to serve Canada and to preserve freedom and peace. It is not a perfect piece of legislation. There are still some groups which are not covered, such as escapees and evaders, and one of our goals in terms of future legislation in this area is to have those groups included.

I would be remiss in my duty if I did not express our thanks and appreciation to the Minister of Veterans Affairs for successfully steering this legislation through Cabinet at a time when the pressure for budgetary restraint is extremely great. I am sure all honourable senators and all veterans, particularly former prisoners of war, join me in acknowledging the minister's efforts in this regard.

As I indicated earlier, this is not a controversial piece of legislation. It received unanimous support in the other place, and I am sure it will receive the same treatment in this chamber. It was referred to the Veterans Affairs Committee of the other place, and was amended to make it retroactive to April 1 of this year. I do not feel anything would be achieved by referring it to a Senate committee, but if it is the wish of the house that it be referred to committee, I shall be only too glad to make the appropriate motion.

Senator Norrie: Honourable senators, I wonder if I might ask a question of the sponsor of the bill? A very close friend of mine, formerly of Truro but now living in Sydney, was what is referred to as an evader. He is very concerned and upset that evaders are excluded from benefits under this legislation. Is that true?

Senator Carter: Yes.

Senator Norrie: Unfortunately, there was a rather nasty story about evaders in one of the newspapers recently. It was to the effect that some of them did not try to escape; that they actually enjoyed hiding. That story only served to make the matter more insulting to my friend.

To give you some background, he hid for several months in an attic, with the Germans constantly knocking at the front door and searching the woods around the house in which he was hiding. He had no chance of escaping for the whole period he was in hiding. For that reason he feels he, and others like him, should be treated in the same way as prisoners of war. It causes him a great deal of sorrow to feel he is being pushed aside.

I am wondering whether perhaps this bill should be referred to committee where this aspect of it can be further explored.

Senator Carter: This aspect was brought up during the course of the debate in the other place, as well as during the committee proceedings. It is true that evaders are not included in this bill, although the committee of the other place did recommend it, and it had the support of veterans' organizations. Evaders are specifically excluded, of course, because the measure applies only to those who were incarcerated for a period of more than three months.

It is perhaps a bit unfair, because it is the military duty of a prisoner of war to try to escape. Those who were successfully evading capture were really carrying out their duty, for which it would now appear they are being penalized. Personally, I have a great deal of sympathy for them, and I am disappointed, as I mentioned earlier, that they are not included. However, it is a goal we hope to achieve in the future. The feeling is that we are fortunate in getting this much, and I do not think we should hold the bill up hoping for something which does not seem possible under present economic conditions.

I might mention that the three-month incarceration requirement is in the legislation because it was felt that those who were prisoners of war for only a matter of days or weeks, not having been subjected to the same treatment and conditions that gave rise to long term disabilities, should not be eligible for compensation. As honourable senators are well aware, during the latter stages of the war many people became prisoners of war for overnight, or were held for only a few days or weeks.

I am hopeful that we will succeed in having such groups as evaders included for compensation in future amendments to this legislation.

Hon. Orville H. Phillips: Honourable senators, I should like to thank Senator Carter for an able and excellent explanation of Bill C-92. As he indicated, we on this side can readily support its passage. At the same time, however, I must express regret that certain classes of veterans have been excluded.

Recently, the Carleton University student newspaper, *The Charlatan*, presented a number of awards to various classes of politicians, and the recipient of the Rip Van Winkle award was the present Minister of Veterans Affairs. The citation on the award quoted one of his replies in the House of Commons to the effect that while they were considering the legislation embodied in Bill C-92 he did not wish to tie down the government in this respect.

Perhaps it was a bit unfair to single out this particular Minister of Veterans Affairs, who is really very conscientious. Since he comes from my province, I should perhaps come to his defence. I think the Department of Veterans Affairs, and perhaps Parliament itself, should have received the Rip Van Winkle award because, as the student newspaper went on to point out, World War II ended 31 years ago and here we are just now bringing in legislation to compensate a special group for the first time.

When I first came to Parliament, I was made very much aware of the situation in respect of POWs by Marcel Lambert, who is presently the member for Edmonton West. He was taken prisoner at Dieppe, and has quietly campaigned for special legislation to compensate prisoners of war.

● (1500)

As the sponsor of the bill explained, the bill sets up three classifications. Those receiving the greatest benefits are the so-called Hong Kong prisoners. In this regard we are correcting a mistake that was made in the previous legislation, which limited everyone to a benefit of 50 per cent. This has now been removed and the Hong Kong prisoners can receive compensation for the physical and mental torture they suffered.

The second classification—that is, those receiving a 20 per cent benefit—is designed particularly for those taken prisoner at Dieppe. I should point out that the Dieppe POWs received far harsher treatment from the Germans than any other group. In 1942 the Nazis were confident of winning. They had no respect at all for the Geneva Convention, and those unfortunate Canadians taken prisoner at Dieppe were chained together for, in some cases, periods of well over a year. You can imagine the trauma suffered by those young people while chained together for over a year. If honourable senators would like to receive this information first hand, they can speak to Major Vandelac, the Black Rod, who was taken prisoner at Dieppe and later escaped, and who upon recapture was incarcerated in a special prison for such escaped prisoners.

Senator Norrie inquired of the sponsor why there is no compensation provided for evaders and escapees. I join in asking the government to give special consideration to this group. It is not large. I do not believe the number would exceed 250 in all of Canada. Most of these people were members of Bomber Command who were shot down, some of whom were picked up by the underground organization and passed along to Spain and thus back to England. These people had to be hidden by the underground, and it was not uncommon for them to be left alone in hiding for periods of weeks, during which time they received little food and water. It was always a great worry to these people that they would be recaptured and interrogated by the SS, who were very anxious to discover who were the individuals serving in the underground. When they were captured, they were given very harsh treatment, and sometimes tortured, in the hope that they would reveal the names of the members of the underground who had assisted them.

It is rather interesting to recall the reactions of the Germans when a prisoner or an escapee was at large. Up to a full division was often employed in searching for one man. The evaders and escapees made a tremendous contribution to the war effort by causing large numbers of troops to be engaged in searching for them.

[Senator Phillips.]

The sponsor of the bill said that the legislation is based upon the fact that a pension of 48 per cent or less dies with the recipient. I believe it is time that we reviewed this aspect of the legislation respecting veterans, because it has become very important now. The veterans are approaching retirement age. A veteran may have an income of $200 a month from a disability pension and compensation for having been a prisoner of war, and those two amounts combined may be less than 48 per cent. If he dies the pension will cease. His widow then suffers an extra financial hardship because the expected retirement income included compensation and the disability pension from the Veterans Affairs Department. I do not think we should continue on without reviewing the effects of the 48 per cent clause in the legislation.

The retroactivity of this legislation again applies only in cases where the disability pension and compensation exceeds 48 per cent. This creates a very special discrepancy between a case where the disability pension and compensation combined may total 45 per cent, and thus cease on the death of the recipient, and a case where that combination reaches 48 per cent and continues on after the death of the recipient. For the difference of 3 per cent I believe that is an unusual hardship.

I find the legislation in respect to the war veterans allowance to be rather vague. The reports of the proceedings of the committee of the other place do very little to clarify it. I would hope the sponsor of the bill can give us further information respecting the effects on those receiving war veterans allowances and, in particular, those veterans receiving the guaranteed income supplement.

I fail to understand why an individual must apply. Surely there is a list of former prisoners of war in the department. I find it rather strange that a veteran, who may not follow the procedures in Parliament as closely as we do, has to apply. I think the benefit should be automatic. I point out that if an individual fails to file an income tax return this month, he will be notified by another department that he failed to file. Government agencies should work the other way once in a while.

Senator Carter mentioned committee proceedings with reference to this bill. I really do not believe it is necessary that we delay passage of this legislation. It received rather unusual cooperation in the other house, and perhaps we could continue in the same spirit. However, it would be wise for a committee of the Senate to make a detailed study of the legislation affecting veterans, and I hope we will do this.

● (1510)

Hon. John M. Macdonald: Honourable senators, I do not wish to delay second reading of this bill, and therefore I shall not speak at length. I congratulate the sponsor on his excellent presentation, and I also congratulate Senator Phillips on his speech. Between them they have brought out all aspects of this legislation, and Senator Norrie has pointed out one weakness which needs to be overcome, if not now then at some future time.

I should also like to congratulate the minister. I think it is wholly wrong to say that he is to blame in any way for

the long delay in introducing this legislation. After all, he has not been the Minister of Veterans Affairs for 32 years. There have been many ministers in the interim, and, although they were wholly sympathetic to the plight of veterans, they were unable to bring forward this type of legislation. I think the present minister is to be congratulated for being the one capable of doing so.

There are one or two items I should now like to comment upon. I do not know if there are any veterans of the First World War who were prisoners of war, but even if there are this measure does not apply to them. Again, I think the time limit is too rigid. I can appreciate the idea that a veteran must have been a prisoner of war for three months before being able to receive any benefit from this legislation, but I venture to predict that if this legislation is passed it will not have been in force for more than a month before special hardship cases will be coming to the attention of the Department of Veterans Affairs. It may well be that a veteran who was a prisoner of war for only a month was, nevertheless, so adversely affected that he needs special consideration.

As Senator Carter mentioned, compensation is the principle upon which this bill is based. Most of us know some veterans who were prisoners of war, and we know that they suffered certain privations, hardships and indignities. While they were young men they seemed to be able to throw off the effects of those hardships. As they have grown older, these things have come back to haunt them. In some cases it is a matter of physical disability; in others, it is mental disability, which is a reasonable basis for compensation. I must reiterate that the three months' time limit seems quite unfair. In my opinion, the minister should have discretion to extend this compensation to persons who were prisoners for less than three months if the circumstances justify it. I hope that in days to come we will be able to amend the legislation to provide for that.

There is another aspect in which the legislation could be strengthened. It provides that in no case can the compensation be more than 100 per cent of the disability pension. I cannot see why that should be, because if a person is already receiving a 100 per cent disability pension and yet has been a prisoner of war, then he receives no benefit from this legislation. In my opinion, in such a case the compensation should be extended to cover 150 per cent. Why not? They deserve it. That is another weakness I should like to see corrected in days to come.

Honourable senators, I believe everything has been sufficiently covered by the previous speakers. I wholly agree with them that no useful purpose would be served at this time by referring this bill to a committee. The sooner we pass it, the sooner the veterans who were prisoners of war will be able to receive the benefits we all want them to have.

Hon. David A. Croll: Honourable senators, I am as anxious as anyone to have this bill passed as quickly as possible so I will take up only two minutes of your time.

I went overseas with the Essex Scottish Regiment early in 1940. That regiment was in the second division, fourth brigade, and participated at Dieppe. By that time, I had been seconded to another regiment which was being made ready for Kiska. The Essex Scottish Regiment suffered heavy casualties, and many of the soldiers were taken as prisoners of war. There were hundreds of them, and I knew almost every one. In later years they suffered as a result of the treatment they were subjected to as prisoners of war, which Senator Phillips has so vividly described. Particular efforts were made not only to chain them, but to hold them in chains. Many of those former prisoners of war are dead; many of them are now grandfathers.

A year ago, after the Hermann Report came in and was endorsed by the committee of the House of Commons, I was invited to go to a conference of veterans' organizations in Windsor. I told them that there would be nothing to passing this legislation, that it would be passed almost immediately, that they need not worry about it. I was not running for office; I was talking to my own people. I thought there would be nothing to it at all, and that it would be accepted immediately. But then the difficulties started. At meeting after meeting in caucus, and at other times and places, pressure was brought to bear to pass this legislation. We were told that the veterans were dying and that they needed it, that time was against them and that something just had to be done. Well, it finally was. The legislation has been endorsed by all parties.

In all fairness, however, it must be said that we really could not do a great deal much earlier. If we are a little late, it must be remembered that in the early days there were so many issues and so many other problems to deal with, that not everything could be done at once. Nevertheless, I am delighted to know that recognition has finally been given to the needs of ex-prisoners of war—my comrades and men from other regiments and brigades. I maintain that the people of Canada have dealt fairly with their veterans of World War II, even if it must be admitted that the veterans of World War I were not so fairly treated.

I am delighted to be here in Parliament 35 years after the event, and to be able to join with my fellow Canadians in seeing a measure of justice being given to these deserving people even at this late date. I support the bill.

Hon. A. Hamilton McDonald: Honourable senators, I join in the debate on the motion for second reading of Bill C-92 at this stage not because I have anything new to add to the comments of those who have already spoken, but simply to add one more voice to the plea they have been making.

There are two or three points I feel quite concerned about in respect of the treatment of Canadian veterans. I agree with Senator Croll that the treatment of Canadian veterans returning after the end of the last world war under the Veterans Charter was probably second to none in the world. I am sure that fact is appreciated not only by the recipients, the veterans, but by Canadians generally. I am not so sure, however, that we have given sufficient consideration to the hardships undergone by so many of young Canadians who were either taken prisoner or found themselves behind enemy lines and managed to escape. This legislation requires that a prisoner of war must have spent in excess of three months in a prison camp in order to qualify for the benefits. As Senator Macdonald pointed out a moment ago, that is simply unfair and unjust.

● (1520)

Many prisoners of war, I believe, suffered their greatest hardships in the first days and weeks after they were captured, and I believe there is a continuing price that

these people are paying and will pay for the rest of their lives. I do not think there should be any time limit here. I think, if a person was taken prisoner in the latter period of the war, though he may have served only a short period of time as a prisoner, that that does not necessarily mean he suffered less than other people who spent a much longer time in a prison camp. Sometimes the greatest problems arose during the period between capture and shipment to a prison camp and we can be sure that it takes a much shorter period of time than three months to do irreparable harm to a human being.

I am not asking that this legislation be delayed—not at all; as many senators have said, it is long overdue—but I hope that this chamber, and the government, will give consideration to extending the benefits of this legislation to all prisoners of war, regardless of the length of time they may have spent in captivity.

I am sorry that the legislation is not broad enough to cover the people who found themselves behind enemy lines and who, through their good luck and ingenuity, were able to find their way back to friendly lines, or across the English Channel to Britain. Surely anyone who has any conception of what some of these people went through in order to escape from enemy territory and return home to fight again must agree with me. The first requirement of any prisoner of war or potential prisoner of war is to escape and return to his own lines and fight again. I happen to know of one particular individual who made his way out of occupied Europe back to Britain on three different occasions, and I happen to know a little about the problems he has had in life up to the present day. He was never captured. I repeat, he made his way out of occupied Europe and back to Britain on three different occasions. There is no doubt in my mind that this man has paid as great a penalty as most prisoners of war, and that he should be excluded from this legislation is, in my view, neither fair nor equitable.

I agree with what Senator Phillips said when speaking of those veterans who, because they are in receipt of partial disability allowances, are not able to pass on any of those benefits to their families. I do not believe there should be a percentage of disability which dictates whether the widow will receive any benefit after the death of the pensioner. I believe that if a person is in receipt of a disability pension, regardless of whether it is 10 per cent or 100 per cent, then the widow ought to be entitled to some portion of it.

Why is a disability pension paid in the first place? In my view, it is paid because an individual, through war wounds or otherwise, has to be compensated for his inability, after leaving the services, to perform to the extent of 100 per cent. These people have paid for what happened to them all their lives. Why should their widows be cut off because their pensions were less than a certain percentage? I believe that every veteran of any war, whether in receipt of a pension or not, has paid a price which, God knows, we can never measure. But to say that benefits are payable only while the pensioner lives is, to me, morally wrong. In my view, his wife or his mother ought to receive a percentage, at least, of the pension that has been payable to that veteran while he lived, and it ought not to be cut off in its entirety on his death.

[Senator McDonald.]

I do not want to delay the passing of Bill C-92, as I said earlier, because it is many years overdue, but I do hope that when it is passed into law discussions on this subject matter will continue.

I give full credit to the Government of Canada and the Canadian people for the generosity extended to Canadian veterans under the Veterans Charter, but I believe that in many instances we have not been fair to pensioners, regardless of the percentage of pension they may draw. There are many examples of where pensions given to veterans in this country have been far less than the amounts of money we have been prepared to pay under other social programs. I do not want to put veterans in a special category, but, on the other hand, I do not want them to be downgraded. In my view, in light of the amounts they receive as compared to the benefits that other people in Canada receive from taxpayer's dollars, veterans have been, and still are, downgraded.

The veteran, in my view, has never received the attention that he is entitled to, and will not do so under this bill. While it is an improvement, it still does not meet the needs of, and does not deal fairly with, those people who volunteered their lives—many of whom gave their lives—in the defence of those things we believe in. If we are not able to be as generous, if not more generous, to that group of people as we are to certain others, then I do not think we, as Canadians or as parliamentarians, are accepting the responsibility that is ours.

Hon. Chesley W. Carter: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Carter speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Carter: Honourable senators, I thank all those who have spoken for their eloquent interventions in this debate. I assure them that I sympathize completely with the positions they have taken with respect to evaders, and with respect to widows.

I should have mentioned earlier in my remarks that if we take all prisoners of war as a whole, 50 per cent of them were incarcerated for 18 months or less, 15 per cent were incarcerated for between 18 months and 30 months, and 35 per cent were incarcerated for over 30 months. So the number that is not included will be extremely small, and I think the house can rest assured that the pressure will continue to be maintained by our colleagues in the other place, by honourable senators and by veterans' organizations generally, to have this legislation still further improved. Nevertheless, we must admit that this represents a great advance in veterans legislation, and is something that is far ahead of anything to be found today in any other country in the world.

● (1530)

Senator Phillips raised the question of widows being entitled to a pension in their own right only if their deceased veteran husbands had been assisted to the extent of 48 per cent or more. The principle of the Pensions Act is that a widow's right flows from her husband's right or entitlement, and while I do not think there is anything particularly sacred about 48 per cent, nevertheless, at the time it was introduced it seemed to be a reasonable level. It

was agreed to by all parties at that time, and was also agreed to by the committee of the House of Commons. Others have suggested that a widow should receive a pension as of right on a basis that is proportional to her husband's entitlement, so that if her husband was a 20 per cent pensioner, she would be entitled to a 20 per cent widow's pension. This is very important because when a widow receives a pension as a matter of right, then other income is not taken into account. But a widow who does not receive a pension in her own right is more or less subjected to a means test and, as I said before, she has to apply and make her case before the Pension Commission.

With respect to applications, those veterans who were prisoners of war and who are already disability pensioners will receive their compensation in addition to their disability pension without having to apply. Of course, others will have to apply. As I said earlier, we speak of Japanese prisoners of war—and we call them Hong Kong prisoners, because the vast majority of them became prisoners as a result of the battle of Hong Kong—but others including naval personnel, air force personnel and civilians became prisoners of the Japanese too. The only way we can help them is to have them apply because, as far as I understand, we do not even know whether there is in existence a group who were incarcerated in Japanese prisons for less than one year.

With respect to Senator Phillips' question about the war veterans allowance, I would say that that, of course, applies to all veterans. Any veteran whose disability pension rate is lower than the rate for the war veterans allowance can have it supplemented by the war veterans allowance. Furthermore, the compensation can constitute a form of entitlement to the war veterans allowance in the absence of a disability pension.

As to the question of the 100 per cent cutoff, I am told we do not have provision in the Pensions Act for multiple disabilities in excess of 100 per cent. Some countries do have provision for multiple disabilities where they can add up to 100 per cent, 120 per cent or 150 per cent—at any rate, in excess of 100 per cent disability—but we do not have that in our pensions legislation at the moment. However, we do have dependants' allowances and assistance of that kind, and these pensioners will be eligible for these other allowances. I am told that as far as the Hong Kong prisoners are concerned, most of them will receive combined 90 per cent or 100 per cent pension and compensation.

I think that Senator Macdonald's suggestion of providing discretion to the minister is an excellent one. As I said earlier, I am sure all those suggestions will be pressed on the minister and on the government in future years as the committee and the organizations interested in veterans make their representations.

Let me conclude, honourable senators, by thanking those who participated in this debate. I want to point out that even though this legislation does not go as far as we would like it to go, nevertheless it represents yet a further improvement to the Veterans' Charter which is already the envy of the world.

Hon. Senators: Hear, hear.

Motion agreed to and bill read second time.

THIRD READING

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

Senator Carter: At the next sitting.

Senator Macdonald: With leave, now.

Senator Carter: With leave of the Senate, and notwithstanding rule 45(1)(*b*), I move that this bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—INQUIRY STANDS

On the Inquiry by the Honourable Senator Bonnell:

That he will call the attention of the Senate to the *British North America Act* as it pertains to transportation.

Senator Bonnell: Honourable senators, I expected to speak to this inquiry last night, and then I hoped to speak to it today. However, under the block system of committee meetings, the Special Senate Committee on Science Policy is scheduled to meet at 3.30 this afternoon, and there is quite a number of highly paid public servants waiting to give of their knowledge, so perhaps the Garden Province, Prince Edward Island, can wait one more day for me to bring to your attention its transportation problems.

I ask that this inquiry stand, and that it be the first item of business tomorrow, and on all subsequent days until it is disposed of. This will enable me to catch an afternoon flight to Prince Edward Island tomorrow. One has to start early in order to get there the same day. As it is, I shall not arrive until after midnight.

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

Hon. Senators: Agreed.

Inquiry Stands.

● (1540)

BUSINESS OF THE SENATE

Senator Bourget: Honourable senators, before the Senate adjourns I would like to raise a point of order.

I thank my honourable friend Senator Bonnell for postponing his speech until tomorrow. I was under the impression that with the establishment of the block system of committee meetings we would not sit past half past three on Wednesday afternoons because the Special Committee of the Senate on Science Policy meets at that time on that day. It now appears it may be necessary to have an order of the house that it do not sit beyond 3.30 on Wednesday afternoons. I do not want to be taken as asking the leader or deputy leader to introduce such a motion, but I hope that such motion will be introduced either tomorrow or upon our return after the Easter recess.

Senator Grosart: May I ask the Leader of the Government or the deputy leader if it is the intention to introduce such a motion making it certain that there will be an order of the Senate that we adjourn at 3.30 on Wednesday afternoons? Otherwise, I do not believe the block system for committee meetings will work so far as that particular committee is concerned.

Senator Langlois: When the block system was introduced it was my understanding that we had reached general agreement on both sides that we would adjourn at 3.30 in the afternoon on each Wednesday. Therefore, I do not see the necessity for a motion.

Senator Grosart: In my view, it is necessary to have such a motion because some honourable senators are not aware of this particular understanding, or perhaps they forget it on Wednesday afternoon, as I am sure has been the case today. This will continue to happen unless there is an order of the house that it adjourn at 3.30 in the afternoon on Wednesdays. It is quite understandable that honourable senators, during a debate to which they wish to contribute, will continue to speak unless they know that the Senate is to adjourn at 3.30.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, April 8, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Canada Deposit Insurance Corporation, including its accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to section 46 of the Canada Deposit Insurance Corporation Act, Chapter C-3, R.S.C., 1970.

INDUSTRY

CANADIAN TEXTILE PROBLEMS—FIRST REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE PRESENTED AND PRINTED AS AN APPENDIX

Senator Macnaughton: Honourable senators, on behalf of the Honourable Salter Hayden, I have the honour to table the first report of the Standing Senate Committee on Banking, Trade and Commerce on Canadian Textile Problems. I would ask that the report be printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

Motion agreed to.

(*For text of report see appendix page 2055.*)

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

EIGHTH REPORT OF STANDING JOINT COMMITTEE PRESENTED AND ADOPTED

Senator Forsey, Joint Chairman of the Standing Joint Committee of the Senate and House of Commons on Regulations and other Statutory Instruments, presented the eighth report of the committee as follows:

Thursday, April 8, 1976

The Standing Joint Committee on Regulations and other Statutory Instruments has the honour to present its Eighth Report as follows:

In relation to the Order of Reference of the House of Commons dated Thursday, February 12, 1976, relating to the subject matter of Bill C-225, "An Act respecting the right of the public to information concerning the public business", Guidelines for Motions for the Production of Papers tabled December 19, 1974, by the President of the Privy Council, the Official Secrets Act, the Federal Court Act, the Statistics Act, Prerogative Writs, and laws related to the question of freedom of information and the protection of privacy, and the question of automatic data processing in the above context, with due protection for privacy of persons.

Your Committee recommends that one member of the Committee be authorized to travel outside Canada, namely, to London, England, to attend a "Symposium on Freedom of Information" to be held on April 29, 1976, by the All-Party Committee on Freedom of Information of the British House of Commons.

Respectfully submitted,

EUGENE A. FORSEY,
Joint Chairman.

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

[*Translation*]

Senator Forsey: Honourable senators, I ask for leave of the Senate now because we are dealing with an urgent matter since the trip is to take place or at least start before the next sitting of the Senate. The question we are dealing with concerns an order of reference from the House of Commons. This may not be our business but the committee needs the permission, the approval of the Senate before sending one of its members to a meeting, in my view a very important one, in London for about a week. I hope the Senate will grant the permission which is required, this afternoon. Otherwise, it would be utterly useless.

Senator Flynn: Would the honourable senator mention who is to be sent over there?

Senator Forsey: We do not know yet, but it is not I as I happen to have a previous engagement.

Senator Flynn: If it were Senator Forsey, I would have no hesitation in giving my permission. However, in any case, let us take a chance.

Senator Forsey: This is the second blessing I have received from the Leader of the Opposition and I am deeply grateful to him.

● (1410)

[*English*]

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move,

seconded by Senator Perrault, that when the Senate adjourns today it do stand adjourned until Tuesday, April 27, 1976, at 8 o'clock in the evening.

Honourable senators, I should like to give a brief explanation of this adjournment motion. In moving the adjournment of the Senate until Tuesday, April 27, I take into consideration that there is at present no legislation before the Senate, and it is very unlikely that any bill will reach us before next Wednesday. Even if we did receive legislation by that date, there would not then be sufficient time to proceed with it before both houses adjourned for Easter. However, there is still a great deal of work before our committees. I understand from the chairman of the Standing Senate Committee on Banking, Trade and Commerce that a meeting of that committee has been scheduled for Wednesday, April 28, at 9.30 a.m. At this meeting the committee will commence its examination of Bill C-58.

The Standing Senate Committee on Legal and Constitutional Affairs is still working on the advance study of the subject matter of Bill C-83, and the chairman of that committee has just informed me that this committee will be sitting on April 27 at 10.30 a.m. and 2.30 p.m. The Standing Senate Committee on National Finance has the draft report on Canada Manpower under consideration, and the Standing Senate Committee on Foreign Affairs is engaged in a study of Canada's relations with the United States.

If this motion is adopted, I propose to move, with leave of the Senate, that both the Banking, Trade and Commerce Committee and the National Finance Committee be given power to sit during adjournments of the Senate. The committees on Legal and Constitutional Affairs, Foreign Affairs, and Agriculture already have that power. This motion, if adopted, will enable the committees on Banking, Trade and Commerce and National Finance to sit during the adjournment should it be considered necessary.

There are two bills on the House of Commons Order Paper which should have reached us by the time we return on April 27. Bill C-20, an act respecting Citizenship, is at the report stage, and Bill C-61, the Maritime Code, is on the Order Paper for third reading.

Senator Flynn: Honourable senators, if some day there is logic reflected in the decision of the government with regard to the sittings of this house, I will probably drop dead from shock, which, I am sure, will be a relief to the Leader of the Government, or his deputy. I simply cannot understand why we are being invited to return on April 27 rather than on May 4.

Recently we attempted to reorganize the sittings of the Senate so as to provide extra time for the work of the committees. That was the main reason for the reorganization; there wasn't much before the Senate itself.

It appears to me unlikely, but I ask the question anyway: Is there any likelihood that legislation will have come from the other place when we return on April 27? If no legislation reaches us before next Wednesday, then it is very likely there will be none when we return on the 27th. That should be obvious.

The Deputy Leader of the Government has suggested that committees might meet while the Senate is not sitting. I do not know when all those sittings are to take place, but one thing I do know for sure: the Standing Senate Committee on Legal and Constitutional Affairs had a program for next Tuesday, with everything already organized. If we really want to do something to help our committees, I suggest the proper thing to do would be to come back next week and then adjourn for two weeks or more.

The same thing applies with regard to the Standing Senate Committee on Foreign Affairs. The chairman said, in committee this morning, that he had organized a meeting for next Tuesday. What is he to do now, cancel everything and ask the witnesses to come some other time? We are quite obviously doing violence to the principle we tried to adopt just a few short weeks ago to the effect that Senate sittings would be arranged to give committees a chance to adjust their schedules and be assured of having members present.

I would think it would be more logical to either adjourn tonight and come back on May 4 or come back next week and then adjourn until May 4, but not to April 27. This is entirely illogical and contrary to everything that was recently said about the way we should proceed in future. I cannot understand this nonsense. It defies logic. And I trust I am not alone in thinking so.

Hon. Senators: Hear, hear!

Senator Langlois: Honourable senators, I regret that I am unable to meet the wish of the honourable Leader of the Opposition.

Senator Flynn: It is not a wish of mine. I am simply trying to elicit something logical from you.

Senator Langlois: There is some logic in the explanation I gave earlier when I said that there were two bills to come to us before we return on April 27.

Senator Flynn: I am not speaking of legislation.

Senator Langlois: If we have legislation, we have to deal with it. It is our job in the Senate—

Senator Flynn: None will come.

Senator Langlois: —to deal with legislation when it comes to us.

● (1420)

Senator Flynn: None will come.

Senator Langlois: The House of Commons is coming back on Monday, April 26, but we will not be sitting until the following night, April 27, at eight o'clock.

Senator Flynn: And do you think in that short space of time they will send any bills to us?

Senator Langlois: They are already dealing with a bill on third reading and they may very well have third reading of that bill either on the Monday night or the Tuesday afternoon, and we, as I have said, are coming back only on the Tuesday evening at eight o'clock. We have been receiving assurances from the other place that we will have legislation to consider on the Tuesday.

Senator Flynn: Hah!

Senator Langlois: That is the only reason we are coming back on that Tuesday. I, myself, should have preferred taking the additional week off, and I would certainly hate to see the Senate recalled if it had no work before it, but

the fact is that we have been told there will be work before this chamber, and in that event there is no alternative but to return in time to consider the matters placed before us.

Senator Flynn: You realize that according to my proposal we would be getting the same time off. I am simply saying that there will be no legislation available for us to consider on the 27th, whereas we have scheduled meetings of committees for next week. I would certainly not object if you wanted to adjourn today until May 4, in any event, but I would ask you not to be so illogical as to call us back on April 27 when it is quite obvious that, if nothing has reached us before next Wednesday, nothing will reach us for the 27th.

Some Hon. Senators: Hear, hear.

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

Senator Flynn: On division, that's for sure.

Motion agreed to, on division.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENTS OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit during adjournments of the Senate.

The Hon. the Speaker: Honourable senators, is leave granted?

Senator Flynn: Leave is granted, but we need explanations.

Senator Langlois: Honourable senators, since the Leader of the Opposition has asked for an explanation, may I say that, before any decision was reached on the adjournment motion we have just passed, the chairmen of committees were consulted. Two committee chairmen expressed the desire to sit during the adjournment, and since they had no power to do so it was necessary to bring forward a motion of this kind. The other committee making this request is the Standing Senate Committee on Legal and Constitutional Affairs—I am sorry, I mean the Standing Senate Committee on National Finance. The Standing Senate Committee on Legal and Constitutional Affairs already has the necessary power to sit during adjournments.

I am not a committee chairman. If the Leader of the Opposition wants further information, I will defer to the chairmen of these two committees and let them answer his questions. They know better than I do what their requirements are.

Senator Flynn: I'm sure they know that better than you do, and it is quite obvious from what the deputy leader said in speaking to the adjournment that those committees do not plan to sit before April 27. Obviously, therefore, they do not need permission to sit while the Senate is not sitting. I understand that the Legal and Constitutional Affairs Committee intends to meet on April 27, which is the day we will be returning. So it does not need that leave either.

Senator Langlois: Yes, it does.

Senator Flynn: No, it does not.

Senator Langlois: I am sorry to disagree with the Leader of the Opposition, but, when an adjournment is for more than one week, no committee may sit unless it has been given specific authority to do so.

Senator Flynn: But the Senate will be sitting on the 27th.

Senator Langlois: But only at night. The committee intends to sit in the morning, and it will not be able to.

Senator Flynn: Why not?

Senator Langlois: Because of the rules of our house.

Senator Flynn: When the Senate sits on the same day as a committee, any committee may sit. It does not need special permission.

Senator Langlois: I am sorry, but your interpretation of the rule is wrong.

Senator Flynn: I should like to ask the chairman of the Committee on Legal and Constitutional Affairs to clarify the situation so far as his committee is concerned.

Senator Langlois: His committee already has power to sit during adjournments, so he does not need to ask for it.

Senator Flynn: Are you not asking for it?

Senator Langlois: No, not for the Standing Senate Committee on Legal and Constitutional Affairs. That committee already has power to sit.

Senator Flynn: I therefore ask the chairman of the Committee on Banking, Trade and Commerce to explain what plans the committee has for the next couple of weeks.

The Hon. the Speaker: Is it your pleasure, honourable senators—

Senator Flynn: This question is not at an end, Madam Speaker, with due respect. We do not have to rush. We have ample time. We have nothing to do this afternoon, apparently, except to discuss this matter. I would therefore like to ask someone from the Committee on Banking, Trade and Commerce to explain this motion, since the deputy leader says he does not know the reason for it.

Senator Macnaughton: Honourable senators, the chairman of the committee is not here at the moment. I was under the impression that we would not be sitting, but perhaps he has other plans. He certainly has not told me about it, or, I believe, the Leader of the Opposition either; but I suppose there is no harm in having this residuary power, and I do not see that it would create any harm.

Senator Desruisseaux: May I add that I spoke with Senator Hayden just before we opened this meeting, and he informed me that the date of April 28 was set for the minister to appear. We have had trouble over the last week or so with regard to a date for this meeting. Senator Hayden mentioned also that if the Senate were to recess until May 4, he would contact the deputy chairman and the minister and set another date.

Senator Flynn: This is exactly what I wanted the record to show; namely, that the plan of the Banking,

Trade and Commerce Committee was to have the minister appear on April 28.

Senator Langlois: I have announced that meeting.

Senator Flynn: For the 28th. So you do not need this motion at all. The purpose of the motion is simply to cover up the illogical proposal which was made before, and I suggest that there is no point in adopting this motion simply to make the deputy leader appear to know what he is talking about.

Senator Langlois: The last comment of my honourable friend is uncalled for, and is not worthy of him.

Senator Flynn: It is what you said yourself.

Senator Langlois: I said that we had consulted the chairman of the committee, and this is what he had suggested. I am not one who sends out notices of meetings; but we have been asked to do this, and it has been my reaction for a long time, when I get a request of this kind from a committee chairman, to cooperate with him as much as possible.

Senator Flynn: I do not object to that, as long as your cooperation is needed. None is needed in the present case, and I dare any member of that committee to say that we need to sit before April 28.

Senator Langlois: Question!

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

Senator Flynn: On division.

Motion agreed to, on division.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENTS OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

> That the Standing Senate Committee on National Finance have power to sit during adjournments of the Senate.

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

Senator Flynn: To put the motion only, surely.

Senator Grosart: Explain.

Senator Hicks: When is it contemplated that the committee will sit?

Senator Sparrow: Honourable senators, I do not wish to prolong the discussion any longer than is necessary, but if the Senate is going to meet on April 27, the Standing Senate Committee on National Finance, although this is not decided as yet, might want to meet on the morning or afternoon of the same day. It seems to me that if it is proposed to adjourn the Senate until 8 p.m. on April 27, we would not have the authority to meet earlier that day as a committee. That is my understanding of the situation.

As deputy chairman of this committee, and speaking in place of the chairman, I would hope that we would be able to schedule a meeting for the purpose of hearing witnesses from the Department of Manpower and Immigration on Tuesday, April 27, prior to 8 p.m.

[Senator Flynn.]

• (1430)

Senator Flynn: Does the deputy chairman not think it might be safer to sit on Monday night in order to have the members available to attend the meeting in the afternoon of April 27? From what we have been told before, that is the reason why we began sitting on Monday nights. What has the deputy chairman to say about that?

Senator Sparrow: Honourable senators, I would think that if we do schedule a meeting of that important committee for these important hearings, then we will not have any problem in having senators turn up for the hearings even if the Senate does not sit until Tuesday night. It is not my intention at this particular time to discuss the merits of whether the original decision to sit on Monday night was good or bad.

Senator Flynn: So you are not satisfied that we have to sit on Monday night in order that committees may be adequately manned on Tuesday morning.

Senator Perrault: Stop leading the witness.

Senator Flynn: Senator Perrault is not a lawyer and shouldn't try to behave as if he were in court. If he persists, I will be forced to challenge him on his knowledge of the subject.

Senator Langlois: Stop making challenges.

Senator Flynn: Seriously, honourable senators, it seems ridiculous when the Senate is sitting at night, that we should have to give leave for a committee to sit that very afternoon. Normally when we sit on any day, then any committee has the power to sit on that same day. It is not because the Senate is not sitting at a given hour that a committee does not have power to sit. Anyway, in summary I would say that this whole matter of the adjournment and the power of committees to sit during adjournment has been completely bungled by the deputy leader and the leader.

Motion agreed to, on division.

LAW CLERK AND PARLIAMENTARY COUNSEL TO THE SENATE

APPOINTMENT OF RAYMOND L. DU PLESSIS, ESQUIRE, Q.C.

Senator Laird, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

> That Raymond L. du Plessis, Esquire, Q.C., be appointed Law Clerk and Parliamentary Counsel to the Senate effective 1st January, 1976.

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

Hon. Senators: Agreed.

Senator Laird: Honourable senators, by way of a brief explanation, I think most of us are acquainted with the work of Mr. du Plessis, who was seconded to us from the Department of Justice some months ago to assist the then Law Clerk and Parliamentary Counsel, E. Russell Hopkins. We have been able to arrive at suitable and satisfactory arrangements with Mr. du Plessis. I should mention that we do not set his salary; that is done by Order in Council. Of course, it is not divulged in these circumstances, but it is satisfactory. Since it has been the practice in the past for the Law Clerk appointed by the Internal

Economy Committee to have his appointment confirmed by resolution, I now move confirmation of the appointment of Mr. du Plessis as Law Clerk and Parliamentary Counsel.

Senator Flynn: I can say, having watched Mr. du Plessis since he has been seconded to the Senate, that I heartily endorse the motion. I am sure that the Senate will be well served by him.

Hon. Senators: Hear, hear.

Motion agreed to.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE ADJOURNED

The Hon. the Speaker: Honourable senators, pursuant to an order of the Senate of yesterday, I shall now call Inquiry No. 1, respecting the British North America Act as it pertains to transportation, and standing in the name of the Honourable Senator Bonnell.

Hon. M. Lorne Bonnell: Honourable senators, I did not know this afternoon whether I was in the Senate or in the other place.

Senator Flynn: Were you in the other place?

Senator Bonnell: I came to the conclusion after a while that there was a filibuster taking place to make sure that I did not catch my flight. However, let me say that as I read the *Minutes of the Proceedings* today I did not gain the impression that any notice had been taken of the point I made yesterday when I asked that this item stand. I asked that it be the first item of business for today, and for each succeeding day until disposed of. It does not appear on today's Orders of the Day, but remains under Inquiries. My adjournment went back to Inquiries. I then read the *Debates of the Senate* for yesterday to see what I had said, which is as follows:

> I ask that this inquiry stand, and that it be the first item of business tomorrow—

That, apparently, was carried unanimously by the Senate without a dissenting voice. It was put by the Speaker, and agreed to. I looked at the Order of Business, which indicated that this would come first, followed by Presentation of Petitions, Reading of Petitions, and so forth. However, it was not my intention that this should be the first Order of Business, but the first Order of the Day. Allow me to say that Her Honour the Speaker very graciously postponed the Orders of the Day and allowed Inquiries to proceed, so I shall bow to her gracious ruling. My point is that I wish to straighten out the records of the Senate. My motion was that it be the first Order of the Day, and it should have been the first Order of the Day, not placed under Inquiries.

It is my hope today to bring to the attention of the Senate the terms of the British North America Act as they affect transportation in Canada, with special emphasis on the province of Prince Edward Island.

To Prince Edward Island, transportation is probably one of the most important factors in its proper development and economic growth. The whole economy of the province is based on its ability to export its goods to the rest of Canada and foreign markets, and its ability to compete without elaborate transportation costs in the marketplace. It is also essential for Prince Edward Island to be able to develop and maintain its place in the economy of Canada, to be able to purchase its goods without elaborate transportation costs. It is for this reason that I believe that the time has come when the Government of Canada should place special emphasis on the transportation needs of Atlantic Canada, and more particularly of the province of Prince Edward Island.

Most of the things I shall mention today which have to do with transportation might well be said for Newfoundland, which is another island province and which also is very highly dependent upon transportation for its growth and development.

● (1440)

The British North America Act, which was the basis of the foundation of Canada and which was passed in 1867, provided for the union of the provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada. It also provided:

> It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the House of the Legislature of the Colony . . . of Prince Edward Island . . . to admit [that colony] . . . into the Union . . . on such Terms and Conditions . . . as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

An Order of Her Majesty in Council admitting Prince Edward Island into the union was approved at the Court at Windsor on June 26, 1873.

Under the Terms of Union, it was agreed:

> That the Dominion Government shall—

It is not "maybe," or "would," or "could," but "shall."

> —assume and defray all the charges for the following services, viz.:—
>
> The salary of the Lieutenant-Governor;
>
> The salaries of the Judges of the Superior Court and of the District or County Courts when established;
>
> The charges in respect of the Department of Customs;
>
> The Postal Department;
>
> The protection of the Fisheries;
>
> The provision for the Militia;
>
> The Lighthouses, Shipwrecked Crews, Quarantine and Marine Hospitals;
>
> The Geological Survey;
>
> The Penitentiary;
>
> Efficient Steam Service for the conveyance of mails and passengers, to be established and maintained between the Island and the mainland of the Dominion, Winter and Summer, thus placing the Island in continuous communication with the Intercolonial Railway and the railway system of the Dominion;
>
> The maintenance of telegraphic communication between the Island and the mainland of the Dominion;

> And such other charges as may be incident to, and connected with, the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces;
>
> That the railways under contract and in course of construction for the Government of the Island, shall be the property of Canada—

And so on. Finally:

> That the provisions in the British North America Act, 1867, shall . . . be applicable to Prince Edward Island, in the same way and to the same extent as they apply to the other Provinces of the Dominion, and as if the Colony of Prince Edward Island had been one of the Provinces originally united by the said Act.

Honourable senators, with that as background for the province of Prince Edward Island, I wish to say that the Government of Canada has been negligent in complying with the terms of union almost from the year in which the Order in Council was signed.

In the early history of Prince Edward Island, Canada wooed the Island delegates, and the federal delegation pledged that Canada would assume and defray all charges for an efficient steam service for the conveyance of mails and passengers, to be established and maintained between the Island and the Dominion, winter and summer, thus placing the Island in continuous communication with the Intercolonial Railway and the railway system of Canada. The Island colony refused to join, because there was no settlement of the land question—which was a burning question in Prince Edward Island in those days—but the essential communication feature was included in all future negotiations until Prince Edward Island became a province in 1873, and this communication pledge was incorporated in the Terms of Union.

The efforts of Island people to secure their constitutional right to efficient and continuous ferry services at the expense of Canada form a dominant theme in the province's relations with the Canadian government. Nearly 50 years of persistence was rewarded in 1917 by a daily car ferry service between the mainland and Prince Edward Island, and it became an integral part of the transcontinental railway system of Canada.

During the first three years of Confederation, the Government of Canada subsidized the Island Steam Navigation Company for operating two paddle boats, one from Summerside to Shediac, New Brunswick, and the other from Charlottetown to Pictou, Nova Scotia. In December 1873, the government accepted a contract from James King of Halifax to run the *Albert* during the winter season between Georgetown and Pictou. This old wooden steamer was unable to cope with the ice, and so the Alexander Mackenzie government decided to purchase its own vessel. The *Northern Light* began 12 years of Island service on December 7, 1876. This service, which was inadequate, unsafe, and missed as many as 45 days during the winter months because of ice, was finally replaced by the *Stanley* on December 18, 1888, which provided a much better service but it was still quite inadequate. Even the *Stanley* missed crossings on 43 different days during the winter season.

At this time an honourable member of this house, a Conservative from Prince County, Prince Edward Island, by the name of Senator Howlan, resigned his seat in the Senate to contest the Prince County seat with a view to supporting a tunnel to New Brunswick from Prince Edward Island. Senator Howlan declared that upon his success at the polls depended the future of the tunnel project. Howlan was defeated, and was reappointed to the Senate. As usual, with the dust of the election settled, the tunnel was soon forgotten.

In 1898 the Laurier government added another steamer to assist the *Stanley*. The new steamer, the *Minto*, like the *Stanley* before it, had the effect of temporarily appeasing the Islanders and removing the idea of a tunnel further from the sphere of party politics.

In 1909, the Government of Canada supplied the *Earl Grey*, which commenced service between Charlottetown and Pictou on December 30, 1909, replacing the *Stanley*, which was transferred to the New Brunswick agency of the Department of Marine. The *Minto* continued on the Georgetown route and the two steamers, in their first season together, kept up continuous communication, so that the ice boats were not employed.

On October 16, 1917, the Department of Marine transferred its vessels to the Department of Railways and Canals. A railway link with the Island was forged—the 38 miles of the New Brunswick and Prince Edward Island Railway from Sackville to Cape Tormentine—and the first daily car ferry service between Cape Tormentine and Borden was inaugurated on that date, nearly 50 years after the original pledge.

From October 16, 1917, until the present day many steamships and motor vessels have been used in the service. The *Scotia I* started operation in November 1920, the *Charlottetown* in 1931, the motor vessel *Abegweit* in 1947, and the motor vessel *Confederation* in 1962. In 1963 the *Prince Nova* commenced service between Wood Islands and Caribou, Nova Scotia. There were the *John Hamilton Gray* and the *Lucy Maud Montgomery* in 1968, and the *Holiday Island* and *Vacationland* in 1971. In 1973 the motor vessel *Prince Edward* operated between Wood Islands and Caribou.

My reason for giving this history of transportation problems between Prince Edward Island and the mainland is to show that since Confederation it has been felt by most Islanders that they have not received an efficient steam service for the conveyance of mails and passengers, both winter and summer. We feel that these ferries should not be stopped by other than natural disaster; that they should not be stopped because of strikes or any other reason; that the Government of Canada is obliged to operate them regardless of national strikes. The province of Prince Edward Island has been neglected and given the runaround by the Government of Canada, regardless of the political party in power, since Confederation. The province of Prince Edward Island has been promised, from time to time, tunnels, causeways, and continuous and efficient services, but on each occasion over the last century those pledges by the Government of Canada have not been fulfilled.

● (1450)

One of the reasons I want to bring this to the attention of the Senate at this time is that there is a rumour predominant in Prince Edward Island these days to the effect that the federal government proposes to increase transportation rates on passengers, vehicles and freight using the CNR ferries. In my opinion, such an increase should not be contemplated on the ground that under the Terms of Union between Prince Edward Island and the Dominion of Canada the federal government was to defray all cost in connection with the maintenance of these ferries.

There are those who will say that this does not mean it cannot impose a charge on those using the service. I say it means that the people of Prince Edward Island, and those who intend to visit Prince Edward Island, as well as the shippers, the importers and exporters of Prince Edward Island, should not have to pay this cost. It is a cost which should be defrayed out of general revenues. In other words, it is my contention that the people of Upper and Lower Canada, Nova Scotia, New Brunswick, British Columbia and Manitoba, and the other provinces that joined Confederation later, should share the cost of operating those ferries, and the burden should not be placed on the people of Prince Edward Island and its visitors.

I further contend that the Government of Canada should make extra financial payments to Prince Edward Island in lieu of the fact that it has not carried out its promises over the years since Confederation. The economy of Prince Edward Island has been injured and almost destroyed because of the poor, inadequate and undependable service by the Dominion of Canada as pledged by the Order in Council of June 26, 1873.

It is also my belief that when the Government of Canada considers raising the rates for Prince Edward Islanders going from one province to another, for those wishing to visit Prince Edward Island, and for those wishing to import into or export goods from Prince Edward Island, it is not doing justice as pledged in the Constitution under that Order in Council. I wonder if the Government of Canada is planning to increase the Seaway tolls or the Crowsnest Pass grain rates.

I should also like to suggest that the ferries between Prince Edward Island and the mainland be considered extensions of the trans-Canada highway system and be treated in the same way as any mainland section of that network. No fee should be charged for crossing the boundary from one province to another. Any increase in the ferry rates would only add to the already unfavourable conditions that now exist, and it is well known that the ferry system is vital to all segments of the Atlantic Region economy.

We cannot, and we must not, be led down the garden path by the Government of Canada into a "user-pay" concept in the transportation system between Prince Edward Island and the mainland. Increases in the ferry rates constitute an additional burden on Prince Edward Islanders—a burden which is not borne by the rest of Canada. Any action to increase the rates by the Government of Canada would subject Prince Edward Island to a substantial increase in transportation costs by virtue of its isolation from the mainland. This is completely unacceptable and should be given no further consideration by the Government of Canada. It is discriminatory and inconsistent with the spirit of the Terms of Union under which Prince Edward Island became a partner in Confederation.

I believe that this matter is important enough to be referred to the Standing Senate Committee on Transport and Communications for study, with a visit by the members of that committee to Atlantic Canada to see firsthand the problems of transportation that exist. Perhaps they could then impress upon the government the need to maintain the status quo as far as costs and ferry rates are concerned, as well as the need to improve the general transportation system, the freight rate system, the highway system, the railway passenger system, the bus system, the air transport system, and so forth, in Atlantic Canada.

The former Minister of Transport, the Honourable Jean Marchand, appointed a high level committee, which was known as the Marine East Coast Co-ordinating Committee, whose purpose was to negotiate an agreement which would eliminate the possibility of ferry services being interrupted as a result of labour disputes. To this date, I have seen no report from that committee. I think that a report should be obtained on the progress achieved by it in negotiating an agreement whereby stoppages in ferry services owing to labour disputes could be eliminated. Further, I believe that the present Minister of Transport should be urged to do everything possible to expedite this process so that ferry services will not be interrupted by strikes in the future.

I could say a lot more concerning stoppages of the ferry services between Prince Edward Island and the mainland, but I do not want to get involved at this time in the question of whose responsibility it is to maintain continuous communications services to Prince Edward Island. This is a matter that has been before the courts and is now in the process of being appealed by the federal government. For that reason, I do not want to become involved in a discussion pertaining to the responsibilities and liabilities concerning stoppages in the area of communications.

Concerning transportation, I should like to point out that under the Terms of Union by which Prince Edward Island became part of Canada, the federal government took over the railroads of Prince Edward Island and gradually purchased the rail line from Sackville to Cape Tormentine, so that when the ferry of 1917 was inaugurated and the CNR took over operation of the ferries, the federal government paid all the operating costs and subsidized the railroad for any losses during that time.

At the time Prince Edward Island joined Canada in 1873, Part X, section 145 of the British North America Act was still in effect, and it asserted that the construction of the Intercolonial Railway was essential to the consolidation of Confederation.

Again, the degree to which Part X might be interpreted to have obligated the Government of Canada to provide Prince Edward Island with some form of rail connection with the mainland is unknown. Certainly, British Columbia, in negotiating the terms of her entry into Confederation, did not rely on the strength of Part X of the BNA Act. The Address of May, 1871, requesting the admission of British Columbia into the union, made it a specific condition of entry:

> That the government of the Dominion undertake to secure the commencement simultaneously, within two years of the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the Seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

When Prince Edward Island joined Confederation, the question of maintaining the rail traffic on the Island was not spelled out as directly as it was in the case of British Columbia, but by a general clause in the Address the Government of Canada undertook to assume and defray "such other changes as may be incident to, and connected with, the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces." In this case, however, it would appear to be necessary to establish that Prince Edward Island did not have transportation services that were available to other provinces and that might reasonably be provided to the Island.

● (1500)

It is my contention that since October 1969, the Canadian National Railways have discontinued all railway passenger services in Prince Edward Island, and have expected the Island people to travel over Prince Edward Island roads by bus or private means. The freight transportation services by the CNR in Prince Edward Island at the present time are on the basis of three days a week—Monday, Wednesday and Friday—between Borden, Summerside and Tignish, and all other branch lines give service as and when required. I understand from some of our farmers in Prince Edward Island that it takes anywhere from five to seven days for Island potatoes to reach Canadian markets. I further understand that refrigerator cars are now being phased out. There will probably not be enough refrigerator cars to transport the whole, or even a good part, of the Prince Edward Island potato crop this year.

From discussions between the Potato Marketing Board and the Canadian National Railways, a pilot project evolved, with potatoes loaded into containers and moved by truck to Moncton, and thence by piggy-back to the Upper Canadian market. This mode of transportation could move potatoes to retailers' warehouses in three days. The movement of potatoes by road to other parts of Canada is probably the major area of concern to the Prince Edward Island Department of Highways.

A statement supplied to the Department of Industry of Prince Edward Island by the CNR indicates that there were 8,240 carloads of potatoes moved from Borden to Cape Tormentine in 1975. This may be translated into weight by assuming that each rail car is fully loaded to 55,000 pounds, and that a container unit is 40,000 pounds. This translates into about 11,000 container units of potatoes alone. The railway also states that there were 9,229 carload lots of other goods carried by the car ferry to and from this province.

The 1975 truck traffic by ferry, to and from this province, amounted to 103,930 trucks. If all the present rail carloads are translated into truckloads, this would mean an increase of about 20 per cent in truck volume on the Island highways.

According to figures released by the Canadian National Railways for 1975, it would take 21,489 additional trucks or vehicles of 40,000 pounds capacity each to move potatoes and other produce if Prince Edward Island had no rail system. Apparently, as of this date, no decision to abandon the railroads, or the date on which they are likely to be abandoned, has been made. Also we do not know how long after a decision is reached it will take to phase out the railroads in Prince Edward Island, but we do know that Mr. D. W. Blair, the CNR Vice-President of the Atlantic Region, stated in January of this year:

> If alternate transportation can be found, the railroad will be phased out of Prince Edward Island.

We know that during the last five years, 22 of the 27 railway stations in Prince Edward Island have been closed. We also know that roadbed maintenance has deteriorated to the degree that all trains run on slow orders, in some areas at ten miles per hour. And we also know that railway passenger service was phased out ten years ago, and there are many other subtle indications that the railroads are leaving our province.

Honourable senators, it is my belief that if there is to be this extra truck traffic—an estimated 21,489 additional vehicles of 40,000 pounds each, which means an overall 20 per cent increase in use of the highways—the Government of Canada should give substantial support to the strengthening and maintenance of our highway system in the province to cope with this extra traffic and extra heavy traffic.

I also note that the Atlantic Provinces Transportation Commission, in March 1976, reported as follows:

> Rail piggy-back rates between the Atlantic Provinces and the Province of Ontario have been increased, effective March 19, 1976. The new rates on general merchandise as published by the CNR, CP Rail and Dominion Atlantic Railways, generally effect an 8 per cent increase in westbound traffic and a 9 per cent increase in eastbound traffic.

This increase in freight rates for piggy-back service will affect the marketing of Prince Edward Island potatoes if they are shipped by container service, truck and piggy-back to the central Canadian markets. It means an increase of 8 per cent in transportation costs for Prince Edward Island producers. Prince Edward Island importers and exporters are being penalized by this extra increase in rates.

I also noticed that the Honourable Dr. Ings, Minister of Agriculture and Forestry for Prince Edward Island, was reported in the Charlottetown *Guardian* of March 27, 1976—that is a Prince Edward Island paper that covers the island—as saying:

> [The] maintenance and improvement of rail service in this Province is necessary in overcoming agricultural marketing problems . . . Transportation is the prime marketing obstacle facing Island producers.

The former Minister of Transport, the Honourable Jean Marchand, stated that the Ministry of Transport was in a mess. On June 16, 1975 he announced a new national

transportation policy, and said that under that policy the Minister of Transport had a three-fold responsibility:

(a) With full provincial development and support, to ensure the overall efficiency of the highway system on a national basis;

(b) To ensure the appropriate level of balance between competing or complementary modes of transport;

(c) To ensure a continuous transportation network in the national sense, both in terms of the highway network and in terms of its relationship to other modes.

He further stated that the Department of Indian and Northern Affairs was responsible for the development of the northern roads program and the infrastructures of both national parks and Indian reserves; and that it was the responsibility of the Department of Regional Economic Expansion to improve accessibility to selected and isolated areas and to improve regional infrastructure and supportive services.

He also said that a number of highway programs that implement the new policy were already under way or in the planning process. That was in 1975, and they are as follows:

● (1510)

1. A road strengthening program for the three Prairie Provinces has been launched which involves a federal expenditure of $78.5 million over the next five years.

2. Interim agreements have been concluded and construction has begun on a western northlands highway.

3. A West Coast highway access study is planned.

4. Highway programs in Quebec and Ontario are also being discussed.

5. A study to determine the need for strengthening and upgrading major provincial highways in the Atlantic provinces is expected to get under way in the near future.

This new highway policy was announced by the Honourable Jean Marchand in June 1975 in the House of Commons—a new national transportation policy! This new policy triggered an upsurge in the hopes of Atlantic Canada that we could expect some federal assistance in this highway upgrading and strengthening program. Most of the ministers of the Atlantic provinces met with the present Minister of Transport, the Honourable Otto Lang, in March of this year but, to my knowledge, no decision has yet been reached by the Ministry of Transport as to the type of assistance that will be available to Atlantic Canada for upgrading and strengthening the highways.

The following news item appeared in the Charlottetown *Guardian* of March 27, 1976:

Highways Minister Bruce Stewart has repeated warnings about the possible impact of abandonment of rail lines on the Island: loss of train service would mean increased truck traffic and a threat to the province's highways.

"If I told you I don't know what we are going to do about it, that would be close to the truth," Mr. Stewart admitted in the legislature yesterday.

He said he met recently with federal Transportation Minister Otto Lang. Mr. Lang "has given a very favourable reception" to the Island's plea for assistance in rebuilding and strengthening highways.

The road-strengthening needed if train service is lost would take 10 years and cost almost $19 million, Mr. Stewart told the house. And that would be just to strengthen the main highways, not secondary roads.

It is my contention that the highway system of Prince Edward Island, which is a very important part of our transportation system, is inadequate. There have been continuing efforts by the province to encourage the federal government to participate in an upgrading and strengthening program, together with the construction of a by-pass around the city of Charlottetown. I believe that if Canadian National Railways is to be phased out of Prince Edward Island and truck container and piggy-back service is to be inaugurated, there should be some uniformity of the maximum gross loadings, the axle configuration, and overall regulations to permit the freedom of the trucking industry to travel through the Atlantic Region under a single set of regulations governing this mode of transport.

It is my belief that since the federal government paid subsidies for the losses of Canadian National Railways, and since Prince Edward Island under the Terms of Union is entitled to the same treatment as other provinces of Canada, and since the other provinces of Canada still maintain a railroad passenger and freight system, the Government of Canada should give financial aid for the upgrading and strengthening and maintenance of our Island highways. It should give extra compensation because of the fact that most of the heavy loads of potatoes and other produce will now be travelling over the Island highways rather than on the railroad, at great cost to the provincial government. Furthermore, the Government of Canada should look into the special needs of this Island province, taking into consideration its isolation as an island, its lack of railway services, its lack of railway passenger services, its lack of a provincial bus service, its increased cost of transportation because of the communication link with the mainland, and give special dispensation and compensation to the Government of Prince Edward Island and the people of Prince Edward Island for the construction of a uniform high-standard highway capable of meeting the requirements of the traffic offering. Trucks from other provinces can then continue to use our roads.

Honourable senators, I direct your attention to our need for adequate air services, our need for new accommodation at the Charlottetown airport, our need for the early construction of a new ice-breaking ferry for the Borden-Tormentine run—the *Abegweit* is now 20 years old—our need for more and larger ferries on the Wood Islands-Caribou run to Nova Scotia, and our need for a provincial bus transportation system to replace the train passenger system which has been abandoned.

I would like also to bring to the attention of the Senate the fact that the contract between Canadian National Railways and the Canadian Brotherhood of Transport and General Workers expired in December 1975. At this date, a new contract has not been signed and there is a possibility of another labour dispute arising during the process of negotiating for such contract. It is, therefore, imperative that every effort be put forward to secure a non-strike agreement covering the ferry services before the island provinces are once again subjected to the intolerable economic effects of a cessation of ferry services.

Following the last strike, the then Minister of Transport, the Honourable Jean Marchand, appointed a high level committee, which was known as the Marine East Coast Co-ordinating Committee, to attempt to negotiate an agreement which would eliminate the possibility of the ferry services being interrupted as a result of labour disputes. To date no report from this committee has been received, and the present status of those negotiations is unknown to me at this time.

Honourable senators, I believe that all these matters—the Government of Canada's anticipated increases in the ferry rates, the increased rates going into effect for piggyback service to Ontario from Atlantic Canada, the possibility of cessation of service of Canadian National Railways in Prince Edward Island, the fact that all rail and bus passenger services have now disappeared from Prince Edward Island, and the fact that no guarantee has been received from the Government of Canada by the Province of Prince Edward Island or the other Atlantic provinces as to the amount of help it will provide to upgrade and standardize their roads to meet this extra traffic—warrant a full inquiry. And I believe that these matters should be referred to the Standing Senate Committee on Transport and Communications for investigation. Perhaps the committee would be able to see at first hand the untenable position in which the province of Prince Edward Island in particular, and Atlantic Canada in general, has been placed, because of transportation difficulties, in respect of competing and maintaining a strong economy.

I shall leave these facts with you, hoping that other senators will speak on this issue. If it is felt that a motion to refer the matter to the Senate Standing Committee on Transport and Communications is appropriate, then I shall be a strong supporter of it.

On motion of Senator Phillips, debate adjourned.

The Senate adjourned until Tuesday, April 27, at 8 p.m.

APPENDIX

(*See p. 2045*)

CANADIAN TEXTILE PROBLEMS—FIRST REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

Wednesday, April 7, 1976.

On May 27, 1975, the following order of reference was made by the Senate:

> "Pursuant to the Order of the Day, the Senate resumed the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to Canadian Textile Problems.
>
> After debate,
>
> The Honourable Senator Asselin, P.C., moved seconded by the Honourable Senator Choquette, that the subject-matter of the inquiry be referred to the Standing Senate Committee on Banking, Trade and Commerce.
>
> The question being put on the motion, it was—
>
> Resolved in the affirmative".

Pursuant to the above order of reference, your committee now presents its first report as follows:

The committee is of the opinion that immediate action can be taken by the government to alleviate the present malaise in the textile industry and, for this reason, is proceeding by issuing a first report on measures that can be instituted immediately pending a more detailed study which should bring about long-range solutions to the problem.

This report constitutes the result of the committee's examination and consideration of the written and verbal representations from the representatives of the textile industry, labour and management, and it takes into account the essence of the speeches made in the Senate on this subject.

Not all interested parties have appeared before the committee as yet, though all have been invited to do so. The presence of the Minister of Industry, Trade and Commerce before your committee has now been assured for April 28, and further, representatives of the Canadian Textile Importers Association have chosen to appear before the committee late in April.

This first report is based on the committee's interim study of the present textile problems after consideration of the evidence submitted as of this date to the committee. A further report may follow dealing with the long-range problems that may arise out of the evidence developed in subsequent hearings at which the minister and the Canadian Textile Importers Association are to be heard.

On May 14, 1970, the Honourable Jean-Luc Pepin, the incumbent Minister of Industry, Trade and Commerce, made known the Canadian Textile Policy in a document tabled in the House of Commons. On this occasion the minister made a brief statement of the highlights of the government's policy as contained in this document.

The minister's commentary included the reasons for the review by his department of the then present state of the textile industry in Canada and the world textile situation and the factors considered in establishment of the new policy. As reported in the Commons *Debates* of May 14, 1970, on page 6952, he said:

> "In the first place, the restrictions by other industrialized countries lead to increased pressures from low-cost competition on the relatively open Canadian market."

and

> "In the second place, other countries have severely limited the access of Canadian textile and clothing exports, and the attainment of full competitive potential in Canada has been limited by the slow progress in the liberalization of world trade in textiles."

The minister went on to say that two extreme policies, an open door policy and one of global containment had been considered and rejected.

The policy adopted was intended to provide a framework within which the industry could plan, invest and develop with more confidence. Its purpose was to create conditions in which the industry would continue to move progressively toward viable lines of production.

The minister stated that:

> ". . . the government will be prepared, in cases of serious injury or threat of injury from low-cost imports, to accord special protection—unilaterally when necessary—in order to facilitate adjustment to or strengthening of the more viable lines of production."

Emphasis was placed on the industry planning to phase out the least competitive lines and concentrate on those with the highest competitive potential.

The committee's examination of the textile problem has exposed a most deplorable situation in the textile and clothing industries (hereafter referred to simply as the textile industry). At the present time the domestic industry is producing approximately 46% of the textile products consumed in Canada with the balance being imported. This situation has developed over a number of years, as shown by the following:

CANADIAN TEXTILE CONSUMPTION

	(million pounds of yarn equivalent weight)					
	Production			Total Apparent	Percentage	
Year		Exports	Imports	Consumption	Canadian	Import
1964	409	34	214	589	64	36
1969	455	40	339	754	55	45
1973	495	41	579	1033	44	56
1974	542	52	602	1092	45	55
1975	490	30	544	1004	46	54

It can be seen that import penetration into Canada has increased and is significantly higher than the U.S.A. (about 12%), the Common Market (about 20%) or Japan (about 10%). It should be observed that the import penetration has been accentuated even after the adoption of the textile policy in 1970.

The cause of this situation appears to be an unwillingness by the government to implement the textile policy in accordance with the aims of that policy, and in fact to promote almost an open-door policy. Further, restraints are imposed long after complaints are made by the industry. The restraint agreements are of a one-year duration and are not adequately policed. Furthermore, the items subject to restraint in Canada represent only 6 per cent of the total imports as compared to 70 per cent in the United States. At the time the textile policy was announced, restraints in Canada applied to 15 per cent of textile imports.

One of the major effects of the increase in imports has been and continues to be the reduction by domestic industry of its productive capacity. Plants have been closed and the labour force laid off. This has had a particularly severe effect due to the nature of the industry whereby in addition to a few major producers, there are many small companies situated in relatively small towns and cities in Quebec and Ontario, and the closing or reduction of such a company affects the economy of the whole town. The textile industry employs between 180,000 and 200,000 workers and in 1973 contributed 6.3 per cent of the value of Canadian manufacturing. The textile industry as a whole employs some 20 per cent of all manufacturing workers in Quebec, and it is also of primary importance in Ontario. It was submitted to the committee that 25,000 textile workers had lost their jobs in the past year and that unemployment among textile workers was 18 per cent in the second quarter of 1975 when the average seasonally adjusted unemployment rate for all Canadian workers was 7.2 per cent. These few statistics amply illustrate the importance of the textile industry in the Canadian economy.

It appears that if proper protection from imports were provided the domestic industry would have or would very quickly develop the capacity to satisfy a substantially larger proportion of Canadian requirements more in line with the U.S. situation where domestic industry produces approximately 88 per cent of total consumption. The industry has already been streamlined and at present operates at a high level of technology and efficiency. To be viable with its present capacity immediate steps must be taken to provide the industry with at least 65 per cent of the domestic market. Due to inadequate import barriers the industry's share is only 46 per cent of the domestic market. However, this 65 per cent could be significantly increased and Canadian consumers would appear to still have adequate access to low cost textile products available from abroad.

In his speech in the House of Commons in May 1970, referred to earlier, the Minister of Industry, Trade and Commerce emphasized the following by reading directly from the document:

> "Low cost measures would, wherever possible, be applied as at present by means of voluntary restraint agreements. However, in the case of undue delay or when the problem does not lend itself to a negotiated solution, unilateral measures such as global import quotas might be applied ... it is proposed that the Export and Import Permits Act be amended to permit unilateral imposition of import licensing quotas in cases of serious injury or the threat of injuries."

It is obvious from the evidence presented that implementation of the policy has not met the intent set forth when announced, that not all available protective measures have been brought to bear on the problem, and those used have been ineffective. For instance, long delays are encountered between the time the injury is reported and a restraint agreement is negotiated, and recommendations made by the Textile and Clothing Board are often altered and diluted.

It would seem that consideration should now be given to effect an amendment to Canadian textile policy to assure some reasonable percentage of the Canadian market to the domestic industry and its labour force. In the meantime there are a number of measures and procedures available which could be used immediately to alleviate the current textile problems and thereby improve the industry labour situation, as follows:

(1) Under section 7 and subsection 8(2) of the Customs Tariff Act a surtax can be applied to imported products in order to prevent imports at disruptive prices. Section 7 was used in June 1970 on the importation of woven shirts.

(2) The Textile and Clothing Board would accelerate their inquiries as much as possible by whatever means available, including consideration of as many products as practicable in the course of each inquiry.

(3) The procedures by which recommendations of the Textile and Clothing Board are implemented could be accelerated and prompt actions enforced. There should be a time limitation within which action on the board's recommendations shall be taken by the minister.

(4) The Minister of Industry, Trade and Commerce could institute a vigorous drive to negotiate as many long-term bilateral restraint agreements as possible. Such agreements should cover a broad range of products in order to afford maximum protection.

(5) Immediate monitoring of restraint agreements currently in force. A significant step in achieving this objective would be the inclusion of all products covered by these agreements on the Import Control List thereby requiring permits for their importation.

(6) Amendment could be made to the Export and Import Permits Act to allow the placing on the Import Control List of textile products subject neither to restraint agreements nor to a Textile and Clothing Board inquiry.

Respectfully submitted,

Salter A. Hayden,
Chairman.

THE SENATE

Tuesday, April 27, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

THE HONOURABLE L. M. GOUIN

TRIBUTES ON RETIREMENT FROM SENATE

Hon. Raymond J. Perrault: Honourable senators, the Clerk of the Senate has been officially notified that one of our most distinguished colleagues, the Honourable Senator Leon Gouin, has tendered his resignation to His Excellency the Governor General. Senator Gouin was summoned to the Senate in November 1940, and at his retirement stood third on the list of senators according to seniority. During the more than 35 years he served in the Senate, he worked faithfully and thoroughly in both the Senate and its committees, and made a lasting contribution to the debates of this house. But as honourable senators are aware, his health had failed in recent years and he had reached a point where he no longer felt able to carry out his duties in the Senate in his usual conscientious manner.

Leon Mercier Gouin was born in Montreal and is the son of the late Sir Lomer Gouin, who was, in turn, Prime Minister of the Province of Quebec, federal Minister of Justice, and Lieutenant Governor of the Province of Quebec.

Senator Gouin is a barrister, an honoured member of the Quebec Bar and author of note. He was a professor at the University of Montreal and the University of Ottawa. During the Second World War he served overseas with the Educational Service of the Canadian Armed Forces. He is Commander of the Order of St. John of Jerusalem and Chevalier of the French Legion of Honour, member of the Royal Society of Canada and Alliance Française.

Senator Gouin is a man of many talents who has served his city, his province and Canada faithfully and well. He is a kind man, a gentle man. We wish him all the very best and all that is good in his retirement. We shall most certainly miss him.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, as the Leader of the Government pointed out, Senator Gouin sat in this chamber for over 35 years. His was a remarkable career in the Senate and in his profession as well as in his quasi-professional and quasi-political activities.

He comes from a well-known family in Quebec and in Canada, since his father, Sir Lomer Gouin, was Premier of the Province of Quebec, Minister of Justice in the federal government and Lieutenant Governor of Quebec. I am sure he would smile at my mentioning his brother Paul who, at a crucial time in the political history of Quebec, played a very important role.

Called to the Bar some fifty years ago, he practiced his profession actively until just a few years ago. As professor at the University of Montreal, and at the University of Ottawa, he published several outstanding works. A gentleman in the old tradition, his interventions in the Senate, as in all his activities, always bore the stamp of great objectivity and consideration. Pleasant to deal with, he has only friends in the Senate; we all regret that his health should have forced him to turn in his resignation.

He may rest assured that we will remember him with fondness, that we shall always be pleased to have him visit us and that we wish him long years of happy and fruitful retirement.

Hon. Sarto Fournier: Honourable senators, if you would allow me—I am not given to praising people who are leaving us for one reason or another but in the case of Senator Gouin, that is another matter.

I became acquainted with the Gouin family when I was a little boy living in the small Beauce parish. Hanging on the wall of our living room was the portrait of his father, Sir Lomer Gouin, and the impression I retained of this face has enabled me to follow the evolution of the Gouin family. I became aware that a young man named Léon, who was to become our colleague, Senator Gouin, had succeeded at an early age to attract the attention and respect of the highest authorities in this country, particularly in the field of constitutional law. He had written a thesis or an article which had attracted Sir Wilfrid Laurier's attention, and Sir Wilfrid congratulated him on the way his young brain had so well comprehended the affairs of our country. It is thus that our colleague, Senator Gouin, started on his political career, by rising in depth, if I may so phrase it.

I have followed his development, his dedication as a teacher, a barrister, a senator, a scout before the war, during the war and after the war and I believe that we must bow respectfully to him today, and we are happy to be able to do so because we are doing it during his lifetime. Usually, we bow before the grave of someone who has just died. In the case of Senator Gouin, we readily pay tribute to his career, to his merits, to his works. At the same time we must point out that the contribution of his wife is partly responsible for his success in life. We are pleased to rejoice with him. Anyhow, for my part, I must add with much admiration and sincerity that he has lived in a world where the best things are doomed to the worst fate and he is a man who has united a superior intelligence to an exhaustive knowledge of mankind and things.

We will feel his absence, we will regret it. However, his contribution is a work of devotion and courage which invites, urges and orders us to carry on what he undertook for the well-being and the prosperity of Canadians.

[*English*]

NATIONAL CAPITAL REGION

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Darling had been substituted for that of Mr. Paproski on the list of members appointed to serve on the Special Joint Committee on the National Capital Region.

● (2010)

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Gauthier (Ottawa-Vanier) had been substituted for that of Mr. Baker (Gander-Twillingate) on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

MOTOR VEHICLE TIRE SAFETY BILL

COMMONS AMENDMENTS—CONSIDERATION NEXT SITTING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-8, respecting the use of national safety marks in relation to motor vehicle tires and to provide for safety standards for certain motor vehicle tires imported into or exported from Canada or sent or conveyed from one province to another, and acquainting the Senate that they had passed the bill with the following amendments to which they desire the concurrence of the Senate:

1. *Page 1, line 8.* Strike out line 8 and substitute the following therefor:

"business of selling in more than one province or country to other persons, for"

2. *Page 3, lines 1 and 2.* Strike out lines 1 and 2 and substitute the following therefor:

"national tire safety mark and, without restricting"

3. *Page 3, line 33.* Strike out line 33 and substitute the following therefor:

"prescribe;"

4. *Page 3, lines 36 to 42.* Strike out lines 36 to 42 and substitute the following therefor:

"facturer, that he establish a registration system by which any person who has purchased a motor vehicle tire manufactured by him and who wishes to be identified may be identified; and

(f) prescribe the kind of registration system to be established for the purpose of paragraph (e) and the manner in which it shall be maintained."

5. *Page 4, line 4.* Strike out line 4 and substitute the following therefor:

"5. No manufacturer shall"

[Senator Fournier (de Lanaudière).]

6. *Page 5, line 3.* Strike out line 3 and substitute the following therefor:

"into Canada;"

7. *Page 5, lines 25 to 31.* Strike out lines 25 to 31 and substitute the following therefor:

"(ii) the importer establishes a registration system by which any person who has purchased a motor vehicle tire imported by him and who wishes to be identified may be identified; and

(c) prescribing the kind of registration system to be established for the purpose of subparagraph (b) (ii) and the manner in which it shall be maintained."

8. *Page 5, line 36.* Strike out line 36 and substitute the following therefor:

"facturer or importer of a motor"

9. *Page 6, lines 1 to 5.* Strike out lines 1 to 5 and substitute the following therefor:

"(a) any person who has obtained, for the purpose of sale or resale, a tire manufactured or imported by him,

(b) any purchaser of that tire of whom the manufacturer or importer of that tire has a record,"

10. *Page 6, line 11.* Strike out line 11 and substitute the following therefor:

"(a) be given by certified mail"

11. *Page 7, lines 1 and 2.* Strike out lines 1 and 2 and substitute the following therefor:

"any person who has been designated as an inspector pursuant to the *Motor Vehicle Safety Act*."

12. *Page 7, line 14.* Strike out line 14 and substitute the following therefor:

"tion 4 or 7 that is to be offered for sale and that is owned by or situated on"

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

Senator Langlois: Honourable senators, I move that these amendments be placed on the Orders of the Day for consideration at the next sitting.

Motion agreed to.

CITIZENSHIP BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-20, respecting citizenship.

Bill read first time.

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report, dated March 1976, of the Law Reform Commission of Canada entitled "Expropriation", pursuant to section 18 of the Law Reform Commission Act,

Chapter 23 (1st Supplement), R.S.C., 1970, together with explanatory notes.

Report of the Department of National Health and Welfare for the fiscal year ended March 31, 1975, pursuant to section 13 of the Department of National Health and Welfare Act, Chapter N-9, R.S.C., 1970.

Report of The Canadian Wheat Board for the crop year ended July 31, 1975, including its financial statements certified by the Auditors, pursuant to section 7(2) of the Canadian Wheat Board Act, Chapter C-12, R.S.C., 1970.

Copies of letters from the Prime Minister of Canada to the Premiers of the Provinces, dated April 19, 1975 and March 31, 1976, concerning "Patriation" of the British North America Act, together with attachments.

Report, dated March 1976, of the Law Reform Commission of Canada entitled "Mental Disorder in the Criminal Process", pursuant to section 18 of the Law Reform Commission Act, Chapter 23 (1st Supplement), R.S.C., 1970, together with explanatory notes.

Report respecting operations of the Medical Care Act for the fiscal year ended March 31, 1975, pursuant to section 9 of the said Act, Chapter M-8, R.S.C., 1970.

Report of the Textile and Clothing Board, dated February 11, 1976, to the Minister of Industry, Trade and Commerce, pursuant to section 19 of the Textile and Clothing Board Act, Chapter 39, Statutes of Canada, 1970-71-72, respecting acrylic yarns.

Report of the Textile and Clothing Board, dated February 11, 1976, to the Minister of Industry, Trade and Commerce, pursuant to section 19 of the Textile and Clothing Board Act, Chapter 39, Statutes of Canada, 1970-71-72, respecting men's and boys' shirts.

Report of the Textile and Clothing Board, dated February 11, 1976, on an inquiry respecting outerwear.

Report of operations under the Export and Import Permits Act for the year ended December 31, 1975, pursuant to section 26 of the said Act, Chapter E-17, R.S.C., 1970.

General Order of the Judges of the Supreme Court of Canada, dated April 1, 1976, amending the Rules of the Supreme Court of Canada, pursuant to section 103(4) of the Supreme Court Act, Chapter S-19, R.S.C., 1970.

Report of the Northern Transportation Company Limited, including its accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report on operations under Part II of the Export Credits Insurance Act for the fiscal year ended March 31, 1976, pursuant to section 27 of the said Act, Chapter 105, R.S.C., 1952.

Reports on operations under the Regional Development Incentives Act for the months of December, 1975 and January, 1976, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

Copies of Statement made by the Minister of National Health and Welfare to the House of Commons on April 14, 1976, with respect to proposals to extend coverage of the Old Age Security Act, together with copies of document entitled "Proposed Amendments to the Old Age Security Act", dated April 1976.

Report of the Public Service Commission of Canada for the year ended December 31, 1975, pursuant to section 45 of the Public Service Employment Act, Chapter P-32, R.S.C., 1970.

Report of the Public Service Commission on Delegation of Staffing Authority for the year ended December 31, 1975, pursuant to section 45 of the Public Service Employment Act, Chapter P-32, R.S.C., 1970.

Report of the Public Service Commission on Positions or Persons excluded from the operation of the Public Service Employment Act for the year ended December 31, 1975, pursuant to section 45 of the said Act, Chapter P-32, R.S.C., 1970.

FREE TRADE

AN ECONOMIC CONSIDERATION FOR CANADA—DEBATE CONCLUDED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to the question of total free trade as an economic consideration for Canada.—(*Honourable Senator Grosart*).

Senator Flynn: Honourable senators, I was told by Senator Grosart that he did not intend to speak in this debate. If no other honourable senator wishes to speak, perhaps this inquiry may be considered as having been debated.

The Hon. the Speaker: Debate concluded.

CORPORATIONS AND LABOUR UNIONS RETURNS ACT

REPORT OF MINISTRY OF INDUSTRY, TRADE AND COMMERCE—DEBATE ADJOURNED

Hon. Paul Desruisseaux rose pursuant to notice:

That he will call the attention of the Senate to the Report of the Minister of Industry, Trade and Commerce under the *Corporations and Labour Unions Returns Act* (Part I, Corporations) for the fiscal periods ended in 1973, tabled in the Senate on 9th March, 1976.

He said: Honourable senators, with leave of the Senate and pursuant to rule 23, I ask that the inquiry standing in my name be modified by striking out the period after "1976" and adding the following:

and the Report of the Minister of Industry, Trade and Commerce under the *Corporations and Labour Unions Returns Act* (Part II, Labour Unions) for the fiscal periods ended in 1973, tabled in the Senate on 2nd December, 1975.

I ask this so that I am able to explain both matters in relation to the points I have in mind.

● (2020)

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

Hon. Senators: Agreed.

Senator Desruisseaux: This is not an important amendment, but it will enable me to make some observations which I hope will serve a constructive purpose. These reports are compiled pursuant to section 18 (1) of the Corporations and Labour Unions Returns Act, passed in April 1962 and amended in 1965. They were prepared by the Dominion Statistician for the Minister of Industry, Trade and Commerce. The minister presented the Part I report to His Excellency the Governor General in January 1976. It was then printed and published in February 1976, and tabled in the Senate on March 9, 1976. The Part II report, respecting labour unions, had followed the same route a few months earlier.

The purpose of these reports is to assemble financial and other information concerning the affairs of certain corporations and labour unions carrying on activities in Canada. Such information is necessary to evaluate the extent and effects of the association of Canadians with international labour unions. This information is hardly traceable in the Part I report because of the confidential status given a good part of the filed returns, and the absence of requests for such information under the act from the corporations to which it is applicable. All who fall under this act are required to file the applicable information within a limited time—at most a few months after the end of the year. My question is: Why must the people of Canada wait some three years for these two annual reports to reach them?

In reviewing the production of these reports, we find that the Part I report was submitted by the Dominion Statistician to the Minister of Industry, Trade and Commerce in January 1976, and was presented in accordance with the act to His Excellency the Governor General in January 1976. The report was promptly printed and published in February 1976, and was tabled in the Senate on March 9, 1976. The Part II report followed the general pattern as to time, shortly before the Part I report.

It must be recognized that the content of the Part I report had been regularly expanded and improved over the years. It now gives us financial ratios and production statistics, an analysis of industrial research and development, information on charitable donations, and certain new information on federal and provincial income tax, as well as an extended analysis on tax positions of foreign- and Canadian-controlled corporations. All this information would have been so much more helpful had it been updated, as it could well have been.

There have been only insignificant changes in the last decade in the Part II report, respecting labour unions. The Part I report now includes publication of income balance sheets and retained income statements of corporations. It is a constructive initiative which must be recognized, and the Dominion Statistician and his staff should be commended for these helpful improvements.

But what is the real value of three-year-old statistical information in Parts I and II in making an appraisal of corporations and labour unions? There is a three-year vacuum in the information. It would appear to me that in this computer age a three-year time lag in gathering and arranging statistics and preparing observations for these reports hardly demonstrates the high level of efficiency of which Statistics Canada is capable. In my opinion, there is ground for improvement there.

[The Hon. the Speaker.]

In its foreword, the Part I report points out that it is intended to collect and make available information on the affairs of certain corporations and labour unions carrying on activities in Canada. We see too little of the latter in the non-confidential Part I report. It is not even traceable in the Part II report that is available to us. The Part II report does not provide the important information to which the people of Canada are entitled. In any circumstances, statistical information that is three years old is not really helpful. It has become obsolete, and is unusable in any discussion of the effects of the association of Canadians with international labour unions.

In my view the 1962 act requiring information, as amended in 1965, should now be reviewed, revamped and streamlined, because the status of confidentiality given the returns of international unions is, in my view, over-protection against the interest of Canadians, and is too restrictive in respect of much of the information to which the Canadian people are entitled.

● (2030)

In the light of current problems, answers to a whole new set of questions are necessary, especially in this particular field. It is my belief that the necessary information can be compiled and made available much more quickly than is currently the case, thereby allowing us to make better and more efficient use of it. The people of Canada are entitled to know much more than is revealed in the two reports to which I have referred. Information regarding the financial activities in Canada of international labour unions should be provided in the same way as it is provided in respect of the financial activities of multinational corporations. Some areas need to be aired.

For example, we should know the amounts collected by way of levies, union dues, fees, and assessments of all types on the wages of union members, and whether such deductions from wages are with or without the approval of the workers. We should know what portion of such assessments is spent in Canada, and what portion is transferred and used at will outside of Canada. We should know how the amounts received are earmarked—for whom and for what purpose, and with what authorization by the members of such international unions—and how such amounts are accounted for in the financial statements and returns of the international labour unions. The Canadian public needs answers to these and many other important questions with which we are now faced.

I raise these points in discussing the usefulness of 1973 information being made available in March 1976 to show, first of all, that the 1962 act, as amended in 1965, is presently in need of a general overhaul. It should now be reviewed with the aim of making it more useful and more informative to the public of Canada; secondly, in the hope that we can, in the future, have this information more promptly; thirdly, to alert all here to the rather restricted access we now have to important information concerning international labour unions operating in Canada, which unions are transferring funds obtained from Canadians out of the country; and, finally, to point to the need for revealing more quickly and more generally such information to interested Canadian workers who are members of interna-

tional unions, the Canadian general public and various governmental officials.

I have brought this matter to the attention of the Senate purely and simply as a constructive move, because I believe that this act should now be reviewed and amended. I may be incorrect in some of my assessments. In any event, I believe that when 1973 information is not available until March of 1976, it is, by that time, quite obsolete.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, April 28, 1976

The Senate met at 2 p.m., Honourable Maurice Bourget, P.C., Speaker *pro tem*, in the Chair.

Prayers.

LIBRARY OF PARLIAMENT

REPORT OF LIBRARIAN TABLED

The Hon. the Speaker *pro tem:* Honourable senators, I have the honour to table the annual report of the Parliamentary Librarian for the fiscal year 1974-75.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Fitness and Amateur Sport Directorate for the fiscal year ended March 31, 1975, pursuant to section 13 of the Fitness and Amateur Sport Act, Chapter F-25, R.S.C. 1970.

Report of the Canadian Egg Marketing Agency for the year ended December 31, 1975, including its financial statements and the auditors' report thereon, pursuant to section 31 of the Farm Products Marketing Agencies Act, Chapter 65, Statutes of Canada, 1970-71-72.

Copies of document entitled "An Energy Strategy for Canada—Policies for Self-Reliance" and summary of the strategy paper, together with notes for a statement made by the Minister of Energy, Mines and Resources to the House of Commons on April 27, 1976, and a press release thereon.

AIR TRANSPORT

FLIGHT DELAYS DUE TO LABOUR DISPUTE—QUESTION

Senator Phillips: Honourable senators, I should like to direct a question to the Leader of the Government in the Senate. Presently, a number of personnel in the Ministry of Transport are negotiating wage settlements with the Treasury Board. I refer, in particular, to inspectors who are responsible for aircraft maintenance and renewal of pilots' licences. Can the leader tell us how many flights, both national and international, have been delayed or cancelled because of invalidated pilots' licences?

Secondly, it has been the normal custom of airlines to protect scheduled passengers who have had their flights either delayed or cancelled, by giving them priority on the next flight two or three hours later. Are the airlines following this practice during this labour dispute?

Senator Perrault: Senator, I can verify the fact that at least one flight has been affected by actions of the inspectors. At the same time I am able to provide some information about what may be termed a tactic being employed by certain personnel who are employed by the Ministry of Transport to undertake inspection duties. I will make a more complete statement at a later date, if it is the wish of the honourable senator to have further particulars about some of the more detailed aspects of his question.

● (1410)

But may I say by way of personal testimony that this is the first opportunity I have had to explain the circumstances surrounding the interception of one Air Canada flight to the west coast, following the departure of senators from Ottawa for the Easter break. The aircraft in which I found myself a passenger was stopped at Winnipeg airport by a Ministry of Transport inspector who alleged that the co-pilot's medical certificate was not in order. The co-pilot in question, I learned subsequently, had met all the requirements for renewal and had recently passed a flight safety check and medical examination. There was a good reason for the renewal not having gone through: a refusal by flight inspectors in Montreal and Toronto to process it because of the labour dispute which has existed for some time between the inspectors working for the Ministry of Transport and the Treasury Board.

I was notified early in the conversation with this particular inspector that he and his associates were very unhappy with the Anti-Inflation Board. I said that as a passenger on this aircraft travelling with 196 other people I felt I had a public responsibility to act on their behalf. I said I was making no special plea for myself but that I felt that to intercept an aircraft in this fashion—especially with many elderly people going to the west coast for their Easter holiday to visit with their sons and daughters, and with many mothers travelling with their youngsters—created a situation which should be resolved, if possible. I told the inspector that I felt that his point about a labour dispute had been made in a rather definite and dramatic manner, but that I hoped that we could get together and find a way to get the aircraft moving again.

I said I was at the airport and would like to work with him as a fellow public servant to try to get the aircraft going. The inspector said, however, that he had felt unwell that evening and had gone home early and was not inclined to come back to the airport to assist in the resolution of the problem. I said, "Do you have any other associates who may be able to assist?" He said that he was not inclined to offer any solutions to the problem. I asked, "Could you arrange for a temporary permit to allow this aircraft to move out to the west coast?" He said he was not able to do that either. He said that he felt there were no other DC-8 qualified pilots in the Winnipeg area, and he did not see much point to my efforts. But he said he felt he must report our conversation to the leaders of his trade union. I suggested that he had that right and I spelled my name so that he would know exactly to whom he was

speaking. Our conversation concluded on what I considered to be a civil and non-acrimonious note.

I then contacted an MOT medical officer in the Winnipeg area in an attempt to persuade him to come to the Winnipeg airport to give the pilot a health check. The medical authority was most cooperative. However, he said he was unable to do the examination because the pilot's medical records were in Montreal. I then called the Deputy Minister of Transport in Ottawa. He was unable to help. Earlier I had contacted an assistant deputy as well as other departmental officials, but they were unable to be of assistance.

I do not wish to be tedious or repetitious, but the long and short of it is that I believe the action to stop the flight represented a rather unfair tactic for this particular group to apply against a group of innocent people unable to help themselves in difficult circumstances. As I have said, this was a time when the aircraft was loaded with Easter travellers.

The basis of the inspectors' action is a labour problem which has continued for some time, one aspect of which is the fact that the flight inspectors want a wage settlement which exceeds the anti-inflation guidelines. Certainly, as members of organized labour, these people have a right to bargain as vigorously as they are able to do in order to achieve their settlement; but I must say that I question the tactic of stopping an aircraft under the circumstances which existed on the evening of Thursday, April 15, especially the inconvenience caused to 196 passengers, many of whom were very old or very young, and who obviously felt the effects of such a lengthy delay.

I want to add this, that at no point in the news coverage of this particular incident was I contacted by any member of the news media, with the exception of the Vancouver *Sun*. The CBC, I understand, carried a report on its news services comparing my attempt to get this aircraft flying again with the so-called judges affair. I feel that this kind of comparison—if it was made—represents an extreme example of communications irresponsibility. I think that had any senator or any member of Parliament found himself or herself in a similar position he or she would have had a public responsibility to assist the passengers of the grounded aircraft.

Hon. Senators: Hear, hear!

Senator Perrault: I can only say that I would adopt similar procedures should I find myself in similar circumstances.

If the news media are interested, I would like them to know that I made extensive notes of all my conversations, having learned over a rather long political career that one is wise to do so in view of questions that may be asked subsequently.

Senator Phillips, this does not reply fully, in any sense, to your excellent question but I do welcome the opportunity to explain my personal position.

Senator Argue: I would point out to the Leader of the Government that there is no representative of the press in the gallery at the moment, and in my view they are not fulfilling their public function and responsibility.

Senator Flynn: May I ask a supplementary question of the Leader of the Government? Did he feel that he was some kind of a hostage in the hands of the mediators?

Senator Phillips: Honourable senators, I have a supplementary question for the Leader of the Government. He referred to the judges affair. It is my understanding that the Prime Minister laid down certain directives to cabinet ministers following those events. Has the Prime Minister laid down certain directives on strikebreaking?

Senator Perrault: Well, honourable senators, I really do not know what the purport of the question is. Certainly any activities I engaged in at Winnipeg airport did not constitute strikebreaking in any way, but were rather an attempt to assist a long suffering public.

The guidelines laid down by the Prime Minister with respect to contacts with judges, of course, are very well known. It is not the practice of any member of the goverment, and not, I think, of any member of this chamber, wherever he or she may sit, to engage in strikebreaking; but often where clearly the public interest is involved we do have a responsibility to attempt to be helpful.

POLITICAL PARTIES

POSSIBLE RCMP INVESTIGATION—QUESTION

Senator Greene: Honourable senators, I have a question for the Honourable the Leader of Her Majesty's Government in the Senate. Could the leader tell us whether the RCMP is inquiring into the question of whether any illegal or improper inducements, rewards, payments or pay-offs are being offered to members of the Parti Créditiste to join the Progressive Conservative Party in the province of Quebec?

Senator Perrault: It may be that the Leader of the Opposition may wish to take this question as notice.

Senator Flynn: The question cannot be put to me, as honourable senators know, but I think Senator Greene should put a supplementary question. I think he should ask whether anything has been done in this respect by the Liberal Party over the years, in view of the actions taken by the Social Credit Party in supporting the government, and even reversing its position in the House of Commons in order to save the government.

● (1420)

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE CONTINUED

The Senate resumed from Thursday, April 8, the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. Orville H. Phillips: Honourable senators, I should like first of all to thank and to congratulate Senator Bonnell for raising this matter as an inquiry in the Senate. His remarks were informative and helpful, and, indeed, they contained a great deal of food for thought. There were two main aspects to the inquiry: there was first the CNR-operated car ferry service between Prince Edward Island and the mainland, and, secondly, the CNR in relation to the threatened withdrawal of services in the Maritimes.

As Senator Bonnell pointed out, the act of 1873 requires that the federal government shall defray and assume all

the expenses of operating a continuous car ferry service between Prince Edward Island and the mainland. At the present time the federal government assumes a deficit in the car ferry operation. The right of the federal government to charge for this service has been a subject of debate ever since the inception of that service. Senator Bonnell was very emphatic in stating that the federal government did not have the right to charge for the car ferry service, and that the car ferries should be considered as being part of the trans-Canada highway. In this he has the unanimous support of all provincial governments in the Atlantic provinces.

I support Senator Bonnell in his viewpoint, and I would point out that the schedule to the act states that the federal government shall assume and defray all expenses concerning the car ferry operation. The word "expenses" includes a great deal more than just assuming the deficit. I further submit that the deficit should not be a matter of consideration in times of restraint. In the past the deficit has been allowed to increase as traffic increased, and has not been affected in previous periods of restraint.

When the restraint program was announced, the Treasury Board began considering the estimates of various departments. It looked at the Ministry of Transport and noticed the section dealing with the Maritime subsidies. This aspect of the matter attracted their attention, and I do not need to tell you the result. The subsidy under the Maritime Freight Rates Act was reduced, and the subsidy granted to the East Coast Marine Services of the CNR was also reduced, the total reductions amounting to $25 million. If one looks at the estimates of the Ministry of Transport, one finds contained therein a large element of subsidies for airports and national harbours boards. There are also various bridge subsidies. But none of these was reduced.

Senator Bonnell has referred to the deficit on the St. Lawrence Seaway. I should also like to refer to this. I do not think that either one of us objects to the deficit of the Seaway, but it is the most logical one to compare with the East Coast Marine Services. The St. Lawrence Seaway has a deficit of approximately $30 million, yet there has been no increase in tolls on the seaway. I find it rather interesting that the estimates for the seaway include an item allowing for an increase to the St. Lawrence Seaway Pilotage Authority. The increase, for some strange reason, almost equals the amount removed from the subsidy to the Newfoundland car ferry service and the Prince Edward Island car ferry service.

Senator Bonnell objected to a proposed increase in fares on the car ferries to P.E.I. and Newfoundland. His remarks, apparently, fell on deaf ears; indeed, those listening must have been wearing ear muffs because on Monday of this week the Minister of Transport announced fare increases. One-way fares for automobiles increased from $2.50 to $4.00 and passenger fares increased from 65 cents to $1.00. Fares for trailers doubled. Thus we have a 100 per cent increase—

Senator Rowe: Would the honourable senator permit a question at this point for the purpose of clarification? I am asking this in all sincerity.

Senator Phillips: Certainly.

[Senator Phillips.]

Senator Rowe: I understood the honourable senator to say that the Minister of Transport on Monday of this week announced an increase in fares. I did not hear the announcement, but I was told today that the announcement had not been made by the Minister of Transport but by the Canadian National Railways. Can the honourable senator confirm that the announcement was not made by the Minister of Transport but by the CNR? In my opinion, this is very important.

Senator Phillips: I realize the importance of the question of the Honourable Senator Rowe. I did not receive a copy of the announcement. I asked the Canadian Transport Commission for a copy, and the commission directed me to the Minister of Transport, stating that he had made the announcement. I hope that answer is helpful to the honourable senator.

Senator Flynn: One way or the other.

Senator Phillips: Yes, I agree, Senator Flynn, that it really does not matter who made the announcement; the increases are effective, nevertheless.

I was pointing out that the fares for trailers have increased 100 per cent, automobiles 60 per cent and passengers 50 per cent. Honourable senators, this would be an appropriate time to ask what happened to the Anti-Inflation Board? Employees of the CNR and the CNR ferries are subject to the regulations of the Anti-Inflation Board. Is it not reasonable to expect that the CNR ferries themselves should come under the control of the Anti-Inflation Board? Apparently, an effort was made to soften the blow of the increases by making them applicable only from mid-June to mid-September in the case of the Prince Edward Island car ferries. Following the middle of September the rates will revert to those presently in effect. The CNR is making hay while the sun shines, as the rates apply during the busy tourist traffic season.

Many of our tourists start out from Connecticut or Toronto and will make a tour down along the St. Lawrence through New Brunswick, Nova Scotia and then over to P.E.I. Midway through the tour the head of the household is not only counting the days that have elapsed, but is also looking at his wallet; and when he foresees that a $20 bill will be demolished on a trip over to P.E.I., he begins to have second thoughts. This is causing the government of P.E.I. and the P.E.I. tourist association a good deal of concern.

● (1430)

I understand that the rates have also been increased on the ferries to Newfoundland, and for some strange reason it costs more to run the Newfoundland car ferries on Saturday and Sunday than it does on Tuesday and Wednesday. The pay-as-you-go principle does not apply anywhere else in the CNR.

During the Easter recess the CNR made announcements concerning passenger train service in the Toronto-Ottawa-Montreal area. As honourable senators know, passenger service has fallen off in this triangle, and a $30 million deficit has occurred. How does the CNR propose to meet this deficit? It is increasing the number of trains. If we had a deficit of this size in Atlantic Canada, the solution would be to simply eliminate the service. Yet in central Canada a deficit requires an increased service. Surely, if pay as you

go works on the east coast it should also work in central Canada.

The number of trans-Canada trains is being reduced in order to avoid a subsidy to the railways. Surely, if it works within that narrow little triangle—Montreal, Ottawa and Toronto—it should also work from Winnipeg to Vancouver.

Many objections have been raised about the fact that the federal government utilizes the CNR to operate car ferries rather than set up a separate crown corporation for this purpose. In 1951 the Turgeon Royal Commission stated that the operation of car ferries was too closely related to CNR schedules; in other words, the CNR operated the car ferry when it was convenient to them. The Turgeon Commission further stated that there was little doubt that the car ferry service was unsatisfactory. It recommended the construction of a special car ferry for automobile traffic only. We have received a number of those and they are most helpful, but we still need additional automobile car ferries.

As Senator Bonnell pointed out, we urgently need a new icebreaking car ferry. The *Abegweit* went into service in 1947, and anything that takes the beating that the *Abegweit* has taken in nearly 30 years is reaching the end of its service.

On Monday of this week we received a brochure from the transportation council. The rather interesting brochure contained a number of items, one of which dealt with icebreaking techniques. There was a report on a new technique being used involving the blowing of air under the ice in advance of the icebreaker. That report is very optimistic and states that we can look forward to having the St. Lawrence Seaway open all winter. I find it rather strange that this technique was not instituted on the east coast in light of the fact that the federal government has an obligation under the British North America Act and the terms of union to provide year round service—and year round service does not mean a 15-to 20-hour delay, as often happens, particularly in the spring of the year. I am left wondering whether a single member of the transportation council realizes that the federal government has a constitutional obligation for icebreaking on the east coast.

Senator Bonnell raised the general question of CNR service in the Atlantic provinces. In the past, the Senate has heard a good many speeches—perhaps they are best described as lectures—on the necessity of rapid and economic transportation between the Maritimes and central Canada. We are always ready to point out that our natural trade pattern was along the seacoast to Boston, New York, and the West Indies. I do not intend to repeat those arguments. They were not successful in the past, and I do not expect a repetition would have any beneficial effect. However, I should like to refer to the various royal commissions that have investigated transportation problems. The royal commission of 1931 emphasized such problems as the operating efficiency of the railways and the problem of excess mileage. Competition and rates were treated from the national aspect rather than the regional aspect, as we preferred. The numerous commissions, however, were very much aware of the fact that their most urgent problem was one of reducing the deficit of the CNR and, as a consequence, our transportation problems continued. In 1951 we had the Turgeon Royal Commission, which summarized our position as follows:

> In view of the deterioration in foreign trade, particularly because of monetary and commercial restrictions, access to the central Canadian market has become more important than ever. Isolation of the Maritimes from Central Canada areas as a result of distance and of increased freight charges is one of the central themes put forward in their case.

In 1961 another royal commission submitted its report. It was essentially the same; that is, that the federal government should alleviate freight inequities. However, that report went on to say that the previous subsidies had not achieved their objective, that competition to the CNR was forming and that the competition should receive consideration. The CNR interpreted that report as a ready means to withdraw its services and hope that its competition—that is, truck-trailers—would fulfil the needs of the Atlantic provinces, thereby making the failure of the CNR in that respect more acceptable.

● (1440)

Today there is within the Atlantic provinces a growing concern, which is echoed by the provincial governments, that the CNR is attempting to withdraw from some of their obligations. There have been a number of references to this fact in the Senate recently. Senator Rowe has referred to the Newfoundland situation; Senator Macdonald has referred to the service between Cape Breton and Halifax.

I find it interesting to observe the *modus operandi* of the CNR. Their objective seems to be to drive customers away. The CNR achieves this in two ways. First, they refuse to supply railway cars, especially if the railway car is of a specialized nature. The shipment of potatoes requires a reefer or heated car in the wintertime. Usually in November, the Prince Edward Island potato producers start reminding the CNR that a certain number of reefer cars will be required in February and March. In about March the CNR usually runs out of reefer cars and offers a substitute car. Sometimes they even have to take cattle cars from Western Canada into the Atlantic provinces. This serves two purposes: the cattle producer in Western Canada does not have a railway car, but has to turn to a truck-trailer; the potato producer cannot get a heated car for potatoes, so he has to turn to a truck-trailer. CNR have thus lost two customers. Normally, in private business the individual manager who lost customers would be fired, but in the CNR they promote the guy and give him a wage increase for losing customers.

Following the loss of the markets, the CNR then approaches the Canadian Transport Commission and says, "In 1970 we shipped so many cars over this line. In 1975 the number of cars had greatly reduced; the customers have gone somewhere else. Therefore, we would like to abandon the line." In the meantime they have let the railbed deteriorate, and they point to the huge expenditures involved in restoring the railbed. Meanwhile, the trucker moving goods by truck-trailer has turned to the provincial governments for the provision of a railbed in the form of a highway. The CNR does not object to this, but is indeed helpful in pointing out to the Canadian Transport Commission that truck traffic is available and they are quite willing to let the truck traffic deal with the situation.

I believe that on May 17 the provinces will be presenting the federal government with a brief dealing with transportation problems. I anticipate they will raise the question of compensation for the former rail traffic now moving over provincial highways. We can also anticipate that the federal government will say, "We cannot afford to keep up a highway and a railroad bed. Take your choice. You can have one or the other." The provinces will naturally be most interested in having compensation for maintaining the highways.

Honourable senators, this is all very well, but let us look to the future. What will happen five or ten years hence if all traffic moves over provincial highways? Will we have sufficient trucks to handle the situation? Senator Bonnell pointed out that to handle the Prince Edward Island potato harvest 21,000 trucks would be required compared with 8,000 rail cars. Ten years from now will we have the fuel to supply all these trucks? Yesterday the federal government announced a new energy conservation program. We are expected to cut back on our fuel consumption. Can we do this by eliminating the railroads? I very much doubt it, and I ask honourable senators to give serious consideration to this fact.

At the close of his remarks Senator Bonnell suggested that a Senate committee study the subject matter of this inquiry. I consider this to be a worthwhile subject for a committee study, and I would like to suggest that we bring down some of the CNR officials from Montreal and the Atlantic provinces to let them answer our detailed questions. It may be rather difficult to persuade these officials to come down, because they know the situation of the railroad and do not enjoy travelling on it.

Senator McDonald: Would the honourable senator permit a question?

Senator Phillips: Certainly.

Senator McDonald: A moment ago the honourable senator was referring to what appeared to be a pattern, not only of the CNR but, I would say, other railroads in Canada, to attempt to discourage traffic, He said that in many cases when the railroad discontinued a service he found that a new service was provided by the trucking industry. Could the honourable senator tell me if on some occasions the trucks that replace the railroad service are owned, directly or indirectly, by those same railroads?

Senator Phillips: I believe both the CNR and the CPR have subsidiary companies involved exclusively with trucking, and these very conveniently move in to pick up the traffic when a railway line has been abandoned.

On motion of Senator Rowe, debate adjourned.

MOTOR VEHICLE TIRE SAFETY BILL

COMMONS AMENDMENTS CONCURRED IN

The Senate proceeded to consideration of the amendments made by the House of Commons to Bill S-8, respecting the use of national safety marks in relation to motor vehicle tires and to provide for safety standards for certain motor vehicle tires imported into or exported from Canada or sent or conveyed from one province to another.

[Senator Phillips.]

Hon. Léopold Langlois moved that the amendments be concurred in.

He said: Honourable senators, before proceeding with the discussion of the proposed amendments, I would refresh your memories as to the history and original objectives of this bill, which was introduced in the Senate in its original form some two years ago as Bill S-3. After examination by the Standing Senate Committee on Transport and Communications, and subsequent approval by the Senate, Bill S-3 was sent to the other place where it died on the Order Paper.

● (1450)

The measure was reintroduced in the Senate as Bill S-8 in October 1974, and passed. It received first reading in the other place in the course of the same month, and it received second reading on March 4 of this year.

Bill S-8 then went to the Standing Committee on Transport and Communications of the House of Commons, where a number of amendments were approved. However, the original objectives of the Motor Vehicle Tire Safety Bill have not been changed in the course of these last two years of work, and this legislation, when passed, will lead to increased safety for Canadian motorists and the prevention of unfair competition for the Canadian tire manufacturing industry. It will establish authority for the Governor in Council to prescribe standards for minimum tire safety requirements. These standards will be established for new tires manufactured in Canada, and also for all tires imported into this country.

Furthermore, the bill establishes a national tire safety mark. By use of this safety mark, tire manufacturers will be certifying that they have complied with the prescribed safety standards. Manufacturers and distributors will be prohibited from exporting, or sending or transporting from one province to another, motor vehicle tires to which the national safety mark has not been affixed. Manufacturers and importers will be required to give notice of any safety related tire defects of which they are aware. Bill S-8 prescribes the method by which this notice must be given.

The amendments made by the House of Commons to this bill number twelve in all. Although there was some criticism voiced in the other place of the work done in this chamber in relation to this bill, the amendments presently before us are not as important as has been claimed. Honourable senators will soon realize this on examination of each of them.

The first amendment is to line 8, on page 1, of the bill, which line is struck out and the following substituted therefor:

> business of selling in more than one province or country to other persons, for

The only words added here are the words, "in more than one province or country". To my mind, this is merely an improvement on the original wording, with no substantial change.

The second amendment is to be found on page 3, where lines 1 and 2 are struck out, and the following substituted therefor:

> national tire safety mark and, without restricting

This is another amendment which brings about some improvement to the wording only, with no substantial change. The only words struck out of the original text are "in relation to motor vehicle tires".

The third amendment is also to page 3, and it strikes out line 33, and substitutes "prescribe;". This is the only word which will remain on that line. The word which is removed is "and", but this is an insignificant improvement in the wording.

The fourth amendment again is to page 3, and by it lines 36 to 42 are struck out and the following substituted therefor:

> facturer, that he establish a registration system by which any person who has purchased a motor vehicle tire manufactured by him and who wishes to be identified may be identified; and
>
> (f) prescribe the kind of registration system to be established for the purpose of paragraph (e) and the manner in which it shall be maintained.

This amendment brings additional substance to that clause in that it substitutes for the words "record system" in the original text, the words "registration system". It is rather difficult to evaluate the importance of this amendment at this time since we are dealing, in this section of the bill, with the power of the Governor in Council to make regulations. Unless one has taken cognizance of the proposed regulations, one cannot distinguish between the importance of having a "registration system" instead of a "record system". This will depend, to a great extent, on the actual regulations which will be passed under this section of the bill. As I said previously, this amendment gives slightly more substance to the clause.

The fifth amendment is to page 4, and it strikes out line 4 and substitutes the following:

> 5. No manufacturer shall

If you look at page 4 of the bill, you will note that the only change is that the words "or distributor", which appear after "manufacturer", are removed, with the result that these prohibitions will only apply to the manufacturer, rather than the manufacturer or distributor as heretofore. This is the only change. I assume that if the amendment is concurred in, the marginal note will have to be amended, when the bill is put in its final form, by removing the words "or distributor".

Senator Flynn: They have forgotten about that.

Senator Langlois: It does not have to be done at this stage. It will be done when the measure is printed in the statutes. This requires no action by either chamber.

The sixth amendment is to page 5, and it strikes out line 3 and substitutes "into Canada;". The only change there is the removal of the word "and" after "into Canada;". This is an unimportant amendment. It is merely a question of wording, as the word "and" was obviously superfluous in that text.

● (1500)

Amendment number 7 is to page 5. It strikes out lines 25 to 31, and substitutes therefor the following:

> (ii) the importer establishes a registration system by which any person who has purchased a motor vehicle tire imported by him and who wishes to be identified may be identified; and
>
> (c) prescribing the kind of registration system to be established for the purpose of subparagraph (b) (ii) and the manner in which it shall be maintained.

This amendment is consequential upon amendment number 4, in which the "registration system" is substituted for the "record system" established in the original bill.

Amendment number 8 is also to page 5, where line 36 is struck out and replaced by "facturer or importer of a motor". Again, it is a question of a slight improvement in the wording of the clause which prescribes for notice of defects, and which gives the list of persons to which these notices should be given. The word "distributor" is removed, and that is the only change this amendment makes.

By amendment number 9, lines 1 to 5 on page 6 are struck out, and replaced by the following:

> (a) any person who has obtained, for the purpose of sale or resale, a tire manufactured or imported by him.
>
> (b) any purchaser of that tire of whom the manufacturer or importer of that tire has a record,

Again, this is merely an improvement in wording with no material change being involved.

Amendment number 10 strikes out line 11 on page 6, and substitutes therefor the following:

> (a) be given by certified mail

This amendment is of no importance whatsoever as it merely alters the mailing method of the notice of defects.

I now pass on to amendment number 11, by which lines 1 and 2 on page 7 are struck out and replaced by the following:

> any person who has been designated as an inspector pursuant to the Motor Vehicle Safety Act.

This amendment adds nothing at all and does not even improve the wording, because it merely refers to section 10 of the Motor Vehicle Safety Act, which says exactly the same thing as the original clause 10 of this bill. I see no purpose at all in this amendment, because it changes nothing. It seems to me to be an exercise in futility, but I suppose this is no reason for turning it down.

Amendment number 12, the last amendment, is also to page 7 of the bill, and by it line 14 is struck out and replaced by the following:

> tion 4 or 7 that is to be offered for sale and that is owned by or situated on

The only words added are "to be offered for sale and". In my opinion, they do not add much to the meaning of the clause, but do improve the wording slightly.

That concludes my remarks on these amendments, honourable senators. I am at your disposal to supply further explanations if you feel I have not been clear enough in what I have said this afternoon. I am in the hands of the Senate, but I feel it is hardly worthwhile referring these amendments to the Standing Senate Committee on Transport and Communications for consideration. However, should any senator desire a more detailed discussion of these amendments, I suggest it might be appropriate to

deal with them in Committee of the Whole. I would be in agreement with such a suggestion.

Senator Flynn: May I ask the Honourable Senator Langlois a question? I believe he pointed out that the only amendment of substance proposed by the committee of the other place was amendment number 4 to page 3 of the bill, which would have the effect of striking out lines 36 to 42 and substituting certain other lines. My memory fails me at the moment, and I do not have the bill before me, but what is it that the registration system would replace? It seems to me that it would be up to the purchaser to ask to be registered as the owner of a tire that he purchases, whereas before it would have been the manufacturer, or retailer, who would have been bound to keep records of all his sales. Is that the difference?

Senator Langlois: Yes. But, as I said in the course of my remarks, it is difficult to appreciate what the difference between the two systems will be since we are dealing with the power to make regulations only. Obviously, unless we have the regulations before us we cannot make that determination. It may well be that a record system could be just as good and as workable as a registration system. It might enlighten my honourable friend if I were to say that the original subclause 4 (1)(*e*) read as follows:

> (*e*) require, as a condition of the use of the national tire safety mark by a manufacturer, that he establish and maintain, or cause to be established and maintained, a record system by which any person who has purchased a motor vehicle tire manufactured by him from him, from a distributor or from any subsequent vendor may be identified.

The only change is the subtitution of the words "registration system" for "record system", and the real meaning of this change will come out only in the regulations. I do not know what is in the regulations, or indeed whether the regulations have yet been drafted, so it is pretty hard to appreciate why this change is made. It may be a better way of doing it, but we shall have to wait until we see the regulations.

● (1510)

Senator Flynn: I thank the deputy leader for his explanation. It seems to clarify matters in my mind, and I now see that it would be up to the purchaser, under the regulations, to register the tire he purchased if he wished to be identified; whereas under the original text the manufacturer had to keep the record as to whether the purchaser wanted to be identified or not.

Senator Langlois: But as I understand the legislation, if the manufacturer or importer does not so identify himself, he will not be able to use the national safety tire mark.

Senator Flynn: It is a protection given to the consumer eventually, but only if he wishes to be protected. In any event, we in the Senate have always been of the opinion that there is room for improvement with regard to what they do in the other place, and it is obvious they feel the same way. They have made a commendable effort, and I do not think we should criticize it too much, even though, on the whole, their effort may not be as important as they seem to think it is.

Senator Langlois: If I may hazard a last remark, I am in full accord with what my learned friend has just said. It is probable that this criticism from the other place stems from the stiff competition they have to meet from the Senate. It is recognized now all over Canada that the Senate is doing a splendid job, especially in its committee work. It is a good thing that this competition exists, and I hope it will increase. We have nothing to fear, as we are far from the position of being nose to nose with the other place in this respect.

Motion agreed to and amendments concurred in.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, April 29, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Recommendations, dated April 14, 1976, of the Anti-Inflation Board regarding suppliers of commodities or services who bargain collectively, together with Schedule.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, May 4, 1976, at 8 o'clock in the evening.

Before the question is put I should like to give the customary forecast of the work for the coming week, but let me say, first, that when we commenced Monday evening sittings some time before the Easter adjournment, the proposal was to test the new schedule until the Easter break. I think we can say that it worked very well, and enabled us to get through a heavy workload in committees, and it may well be that we shall find it necessary to resume Monday night sittings shortly.

I shall deal first with the committee meetings for next week. On Tuesday the Standing Senate Committee on Health, Welfare and Science will meet at 9.30 a.m. to consider Senator McGrand's motion on crime and violence. The National Finance Committee will meet at 2 p.m. to consider its report on manpower. The Standing Senate Committee on Legal and Constitutional Affairs has called a meeting for 2.30 p.m. to continue its study of the subject matter of Bill C-83, and the Standing Joint Committee on Regulations and other Statutory Instruments has arranged to meet at 8.30 p.m.

On Wednesday the Banking, Trade and Commerce Committee will commence its examination of Bill C-58 at 9.30 a.m., and the Special Committee on Science Policy will meet at 3.30 p.m. or when the Senate rises. It is also possible that the Banking, Trade and Commerce Committee will have to have an additional meeting on Wednesday afternoon. I shall refer to that proposed meeting later on.

On Thursday at 9.30 a.m. the Banking, Trade and Commerce Committee will hold another meeting to hear witnesses on Bill C-58, and the National Finance Committee will meet at the same hour for further consideration of its report on manpower.

In the Senate we shall continue with the second reading debate on Bill C-20, an act respecting citizenship, and other items on the Order Paper. In addition, we can expect to receive Bill C-89, to amend the Anti-Inflation Act, as well as two other bills from the other place. It is also expected that two bills may be introduced in the Senate next week.

● (1410)

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting on Wednesday next, 5th May, 1976, and that rule 76(4) be suspended in relation thereto.

Senator Flynn: I did not hear. Is it only for next Wednesday?

Senator Langlois: It is for Wednesday afternoon. This is the proposed meeting that I referred to in my remarks.

Motion agreed to.

ENERGY

CONSTRUCTION OF ARCTIC GAS PIPELINE—SUPPLY OF ARCTIC GAS TO SOUTHERN CANADA—QUESTION ANSWERED

Senator Perrault: Honourable senators, I have a reply to a question asked by the Honourable Senator Austin on April 7 last regarding the construction of an Arctic gas pipeline. Honourable senators will recall that Senator Austin asked this question relating, as he said, to one aspect of government policy on the construction of an Arctic gas pipeline, namely, that of the time available to the government and to the country in which to make a decision as to whether to supply Arctic gas to southern Canada.

He asked the government because, as he said, he believed there was considerable public misunderstanding about the Canadian supply-demand situation as it affects the need to build an Arctic gas pipeline and, if there is such a need, the timing of introducing Arctic gas supplies to the rest of Canada.

I can say by way of reply that it is the government's intention to await the recommendations of both the Berger commission and the National Energy Board, and completion of other government studies, before further consideration is given to the construction of an Arctic pipeline.

On the question of natural gas supply, there are presently shortages only in respect of supply from fields in British Columbia and the Yukon Territories. As a result of these shortfalls, exports to the United States are periodically curtailed. There are presently no shortages in respect of

supply from fields elsewhere in Canada to domestic or export markets.

OIL AND NATURAL GAS RESERVES—NEGOTIATIONS BETWEEN FEDERAL GOVERNMENT AND GOVERNMENTS OF PRODUCING PROVINCES—QUESTION

Senator Austin: Honourable senators, I thank the Leader of the Government for his answer, which I think makes very clear on the record the government's position with respect to the timing for a decision concerning construction of an Arctic gas pipeline.

The document tabled by the leader yesterday, entitled, "An Energy Strategy for Canada—Policies for Self-Reliance," is an excellent conceptual outline of that strategy, and I should like to ask a question with respect to it. Can the Leader of the Government give some assurance to this chamber, and to those in Canada who are responsible for activities in the energy industry, that there will be agressive negotiations between the federal government and the producing provinces so as to allow a cash flow of the kind required by the private sector to explore for and discover the oil and gas reserves that are indicated as being required by the report?

Senator Perrault: Honourable senators, I can inform the members of this chamber that there have been active discussions in cabinet about this matter. As honourable senators may be aware, there will be meetings and conversations with provincial representatives later this week, and there is a possibility that the government's position will be articulated at that time. At present I am unable to provide details.

Senator Flynn: It is just a possibility.

Senator Austin: Honourable senators, I would like to add this, by way of a supplementary question. I believe the Government of Ontario has a legitimate concern in terms of the addition of cash flows to exploration so that the private sector can find the reserves that are so badly needed in eastern Canada. I wonder whether the federal government will give attention to that particular concern in its dealings with the Province of Alberta and its claims regarding provincial royalties and otherwise with respect to the cash flow arising from oil and gas in Alberta.

Senator Perrault: I can assure the members of this chamber that the government is acutely aware of the need to provide sufficient incentives for continued exploration of oil and natural gas resources in this country. At the same time the critical matter of the public interest has to be taken into consideration, and that is the question faced by the government at this time.

Senator Austin: I certainly want to see that the federal government makes sure that the Conservative government of Ontario and the Conservative government of Alberta do not squabble too much over the public interest.

OFFSHORE OIL AND GAS RESOURCES IN ATLANTIC PROVINCES—QUESTION

Senator Greene: Could the Leader of the Government inform the house as to the progress being made between the federal government and the governments of the Atlantic provinces with respect to the development of offshore oil and gas resources in those provinces?

Senator Perrault: Honourable senators, I must take this question as notice. I have no recent progress report on the developments in this area. However, I should like to repeat that the government is actively concerned with the development of domestic oil resources in every way.

Senator Flynn: That is good. That is a very good answer.

DEVELOPMENT OF TIDAL POWER IN BAY OF FUNDY—QUESTION

Senator Smith (Colchester): Honourable senators, I wonder if I might ask the Leader of the Government, in view of the increasing importance of energy supplies, what the present status is of studies with reference to the development of tidal power in the Bay of Fundy.

Senator Perrault: Honourable senators, I must take that question as notice as well. I am sure the reply will be of interest to all of us when it comes. As honourable senators are aware, there is a concerted effort by the government to diversify development in this country of alternative energy sources of all types, including solar energy, tidal power, coal-fired thermal power, atomic-fired thermal units, and so on; but I must take that question as notice in order to provide a more detailed reply.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.—(*Honourable Senator Rowe*).

Senator Rowe: If I may, I should like to ask that this order stand.

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

Hon. Senators: Agreed.

Senator Bonnell: Honourable senators, I rise on a point of order. On Wednesday, April 7, I asked that this inquiry should be set down as the first item on the Orders of the Day for that day and for each succeeding day thereafter. I should like to thank honourable senators for allowing this and for their support of my motion. I should also like to thank the Clerk of the Senate for having it placed properly in the *Minutes of the Proceedings*.

But, honourable senators, at that time I did not know that there was going to be such great interest in the question of transportation in Canada, and I can see that this subject could very well be discussed here for another month or two. I am also aware that the Government of Canada and this Senate has many important pieces of legislation to deal with before the debate on this transportation resolution is completed. Therefore, I would ask that this order be allowed to take its proper place on the Order Paper and not precede all other legislation as it has done up to this date.

Order stands.

CITIZENSHIP BILL

SECOND READING—DEBATE ADJOURNED

Hon. John J. Connolly moved second reading of Bill C-20, respecting citizenship.

He said: Honourable senators, some 30 years ago, in 1946, our former colleague, the Honourable Paul Martin, was Secretary of State for Canada, and in that year he introduced to Parliament the first Canadian Citizenship Act.

● (1420)

The times were justifiably heady in Canada. It was the beginning of the post-war period and the economy was developing on many fronts. There was industrial development and a new industrialization in the country as a result, in my opinion, primarily because of what had been done during the war. There had been great resource developments in many parts of Canada. Not only domestically, but abroad, too, there had been growth in the stature of Canada—in the international community. Those of us who knew our former colleague, the Honourable Paul, can readily appreciate that he would understand the climate of political opinion in Canada and would have wished to take advantage of it, particularly in a matter so important as citizenship. He therefore introduced, as the responsible minister, the first Canadian Citizenship Act. It was the first one to be introduced, in fact, within the Commonwealth. Other nations of the Commonwealth, including the United Kingdom, have since followed suit.

Before coming to the subject matter of this bill, it may be appropriate to make a few comments regarding the background of citizenship, naturalization and the legislation touching upon these two topics in Canada. By and large, Canadian legislation with respect to naturalization, which was in effect before 1947, was based upon United Kingdom legislation, perhaps particularly the act of 1870, which was passed by the United Kingdom Parliament. There were, however, other Canadian statutes during the days of the union in the colonies which joined together to form Confederation. Indeed, in the first Parliament after Confederation a Naturalization Act was passed. Subsequently, notably in 1881 and in 1914, attempts were made by Parliament to update and improve the naturalization legislation then in force in Canada. I should say also that in 1910 the Canadian Immigration Act was revised, and with good reason. In the first decade of this century, between 1900 and 1910, almost one and three-quarter million new people came into Canada. That, on top of the then population of the country, was a very sizeable group to absorb into a country as young and as sparsely populated as Canada then was. As honourable senators will readily recognize, the matter of immigration is a fact. The matter of citizenship does not automatically follow, and immigration laws and citizenship laws, while there is an inter-relation between the two, are of a different order. Some countries under their laws have had requirements for a waiting period after immigration of anywhere from one to seven years. Perhaps the normal waiting period for many has been five years. Our citizenship prior to the 1947 legislation in Canada was the British citizenship. In other words, Canadians were then known as British subjects. This was, of course, a continuation of the naturalization and the citizenship laws which applied to the Empire and were subsequently adopted by the countries of the Commonwealth. British citizenship was applied on a global scale, to everyone within the Commonwealth or, as it was hitherto, the Empire. The old idea of *civis Romanus sum* was a concept with which citizens within the countries of the Empire were familiar. But by 1946 conditions in Canada had changed, and the Honourable Paul was right there, keeping up with those changes.

Immigration to Canada should always be important to our people. But the fact which gives the question of citizenship its pervasive importance will also be important to Canadians.

Let me give a few very disjointed figures which might stimulate interest in the subject matter of this bill. Citizenship becomes important as more and more people settle within our boundaries. Between 1947 and 1974 nearly four million people came to Canada as landed immigrants. The outflow would, of course, reduce that number. I have here a figure showing the outflow from Canada to the United States between 1961 and 1974, a period of 13 years. It indicates that more than 325,000 people went to the United States. So that reduces the figure of four million for part of the period.

Honourable senators might be interested to know that between 1953, shortly after the Canadian Citizenship Act was passed, and 1975, 1,600,000 certificates of Canadian citizenship were issued, mainly to new immigrants to this country. I am sure we would all agree that citizenship is an important factor in the establishment of the fabric of Canadian nationality. High ideals of citizenship serve to bind a country together, to make it cohesive, to give its people a common purpose, to elevate the tone, the culture and the aspirations of a people. This is important, of course, in times of emergency and war. It is perhaps more difficult to develop than in times of peace, but I believe that in this country we are realizing more and more that it is a worthy and attainable objective for our people.

Honourable senators, the bill has received thorough treatment in the other place. Normally I do not consider that they do as well as we do on all bills, but in this case they have done extremely well. They had four days of very extensive, thoroughgoing debate and 11 meetings of the committee. If I may say so without being patronizing, they did the kind of work that our committees do on bills by means of section-by-section treatment.

Senator Flynn: Aren't you exaggerating a little?

Senator Connolly: Not a bit, because I have read all the evidence and, believe me, it is a little heavy going in places. The same no doubt applies to the evidence of some of our own hearings! Nonetheless, an excellent piece of work was done by the committee in the other place. It heard a number of witnesses, including the Advisory Council on the Status of Women, the Federation of Italian-Canadian Associations and Clubs, the executive committee of an organization called New Canada, and the Laborers' International Union of North America, Local 183. The evidence of the two last-mentioned organizations in particular was very impressive in relation to their programs in preparing new Canadians, landed immigrants, for citizenship. During the period a landed immigrant must wait before applying for citizenship, they provide concentrated training to familiarize them with the languages of Canada, the Canadian environment, our political and social institu-

tions and, generally, the way of life in Canada. Such programs are indeed commendable.

● (1430)

In addition to the witnesses I have mentioned, the Secretary of State appeared on two occasions, giving full and detailed statements about the various clauses of the bill. Also in attendance on occasion were officials from the Department of the Secretary of State, as well as officials of the Department of the Solicitor General and the Department of Justice.

The Citizenship Act was passed in 1946 and proclaimed early in 1947. As honourable senators are aware, it has been amended many times over the years. As a matter of fact, our colleague, Senator Laird, about a year ago, introduced a very inconsequential amendment—I am not sure whether it was a simple amendment or an inconsequential one. In any event, that was one of over 60 amendments that have been before Parliament over the past 30 years.

Bill C-20 purports to meet the modern conditions that prevail in Canadian society. It will, I think, remove some of the mysteries in the procedures leading to citizenship, without in any way downgrading the seriousness or importance of those procedures.

The new act will be more equitable and more logical. The bill itself comprises 43 clauses, and it is not my intention to proceed with a clause-by-clause consideration at this time. There is an interpretation section, and the bill is then divided into nine parts, as follows: Part I deals with the right to citizenship; Part II, the loss of citizenship; Part III, the resumption of citizenship, if lost; Part IV, the issuance of certificates of citizenship; Part V, the procedures leading to the issuance of certificates of citizenship, such as hearings, appeals, and matters of that kind; Part VI deals with the administration required of the Department of the Secretary of State, such as the appointment of judges and the drafting and issuance of regulations; Part VII deals with offences against the act; Part VIII deals with the status of persons in Canada, such as the rights of citizens of the Commonwealth, the power of the provinces to deal with alien-owned lands, which is a controversial problem in many parts of the country, and the judicial process as it affects non-citizens; Part IX is comprised of the transitional and repeal clauses and touches on related amendments as they affect other statutes.

It is proposed that Bill C-20, if passed, will come into force on proclamation. The schedule to the bill contains the new oath or affirmation of citizenship, something which I hope all honourable senators will take the time to read.

I shall deal now with the important changes in the law applicable to citizenship as they are made by this bill. I have some dozen or more such points to mention, and most of them can be dealt with fairly briefly.

The first change made is that under this bill there will be equal treatment for women and men.

Senator Flynn: Are you sure?

Senator Connolly (Ottawa West): Yes, I think so. I hope so. Under the present law, if a Canadian man marries a woman who is an alien, for his wife to become a Canadian citizen she must have one year's residence in Canada. If a Canadian woman marries an alien and the husband then desires to become a Canadian citizen, he has a five-year waiting period. The new law provides that in both cases the alien must be a landed immigrant, which applies now, but the same waiting period will apply to both, and the new waiting period will be three years.

For minor children, whether natural or adopted, under the present law only a father can apply for citizenship. Under the new law either parent, mother or father, if they are Canadians, can apply. That is clause 5(2) of the bill.

An alienated married woman—in other words, a woman who, as a result of her marriage or for some other reason, loses her Canadian citizenship—can regain Canadian citizenship by notification to the Secretary of State, whereupon her citizenship will be immediately restored. That is found in clause 10(2) of the bill.

Under the present law, children born abroad, in or out of wedlock, must register within two years of their birth with the citizenship authority in Canada if they want to retain their citizenship, and they must become Canadian residents by their 24th birthday. Under the new law, for the first generation either Canadian parent can secure a certificate of citizenship for such children born outside Canada. That is clause 3(1)(b).

The new law also proposes that the child itself, the second generation, before it becomes 28 years of age, can apply for citizenship. The requirement is that it must live in Canada for one year or have established a substantial connection in Canada. This is covered in clause 7 of the bill.

With respect to the age of application, heretofore a person who desired to apply for citizenship had to be 21 years old before doing so. Hereafter, a person will be able to apply after having attained his or her 18th birthday. In other words, the electoral laws which confer the voting right at 18 now are to be followed by the citizenship law which allows an application for citizenship at the same age, namely the 18th birthday.

● (1440)

There is a change in the status heretofore enjoyed by British subjects. To become a Canadian citizen under the present law, a person having the status of a British subject need only apply and take the oath. No interview is required, and no language test or "knowledge of Canada" test is taken. However, under the new law the British subject, regardless of what part of the Commonwealth he or she may come from, will receive the same treatment as any other immigrant. Such a person must be landed in Canada, wait three years, and then submit to the usual tests, as prescribed in the bill.

There is a "Citizen of the Commonwealth" provision in the bill. The purpose of this clause is to recognize the existence in Canada of a status for a person who is a citizen of one of the Commonwealth countries. The status of a person who becomes a citizen of the Commonwealth under the bill enables him or her to enjoy the advantages conferred by any law of Canada heretofore upon British subjects. I will give two examples—one from Ontario and one from Nova Scotia. The Law Society Act of Ontario requires any applicant for membership in the Bar to be a British subject. That will now apply to a citizen of any country of the Commonwealth. A barber in Halifax must be a British subject! He will not have to be a British

subject hereafter, as long as he is a Commonwealth citizen as defined in this bill.

Let me say a word about resumption of citizenship once lost. I take as an example the case of a female Canadian citizen who, after having resided abroad for a certain length of time, loses her citizenship for one reason or another—marriage, for instance. If that person desires to resume Canadian citizenship under clause 10(1)(c) of the bill, she must become a landed immigrant, and after residing for one year in Canada she can take the oath and get a certificate of citizenship without going before a citizenship court.

Honourable senators, under the present law, if an applicant for citizenship goes before the citizenship court and fails—this does not happen often, but it has happened—the present law stipulates that a new application cannot be filed immediately; the applicant must wait for a period of two years. The new law would remove that two-year waiting period. In other words, after a failure in citizenship court, the applicant may re-apply for a citizenship certificate at any time he or she feels it is appropriate to do so.

Heretofore, under the present law, landed immigrants have been required to wait five years after their admission into Canada before making an application for citizenship. The new law would shorten that period to three years. The fact of the matter is that some people who come here as landed immigrants never apply for citizenship. Some will wait 10, 15, 20 or 30 years before doing so. The option is with the landed immigrant to make the application. The weight of the evidence presented to the committee, and the suggestion in the other house, seemed to favour the idea that it would be appropriate to shorten the period. It is so much easier to learn about Canada today than it was many years ago. There are many facilities for this. In addition, there are greater facilities for learning either of the official languages, a knowledge of which is a requirement, of course, for citizenship.

Therefore, the period of five years is thought to be a little too long, and the three-year period more appropriate. There are some landed immigrants who could apply within a week and pass any test, but they too must wait for the three-year period to elapse.

Senator Choquette: May I be permitted a question before you leave that point?

Senator Connolly: Yes.

Senator Choquette: As you say, there are new Canadians who have never applied for citizenship, but is it not true that they are considered to be Canadians without that certificate?

Senator Connolly: Yes, they are landed immigrants, but they would not have the right to vote. They are not citizens of the country. You must be a citizen of the country, for example, to have the right to vote.

Senator Deschatelets: What about social assistance or other social benefits?

Senator Connolly: Those are based upon residence. Any entitlement, any right or any obligation based upon residence would, of course, attach to the landed immigrant. There are other rights as well. I chose the right to vote because it seems to be the cornerstone of the rights of a citizen in a modern democratic state. That right would not be conferred until citizenship had been acquired. That is the difference.

The present law requires applicants for citizenship to establish that they are people of good character. Apparently, experience has revealed this to be a very difficult point to establish. In cases where there is doubt, the decision as to whether a person is of good character or not is very often based on the subjective feelings of the judge of the citizenship court. It is proposed by this legislation to apply more objective criteria, and to say that if for a given period of time—I believe it is two years that the bill proposes—there is no record of an indictable offence, and all other things being equal, then citizenship may be granted. The requirement to establish good character is eliminated for the reasons I have already given.

● (1450)

Clause 18 is a touchy and difficult provision. It outlines the situation in which applicants for citizenship are deemed to be risks either on the ground of security or on the ground of public order. At the present time, a discretion to deal with cases like that is vested in the responsible minister, the Secretary of State. It is proposed now to remove that discretion from the minister and to vest it in the Cabinet to be exercised by Order in Council.

I do not think I need discuss here at any length problems that arise in dealing with applications from people who are deemed to be risks on the ground of security. We certainly do not want to have in this country anything approaching McCarthyism. We want to keep as far as possible away from situations in which a man who is charged or accused is considered to be guilty merely by the implication of a charge or by association. On the other hand, we do know that information about security often comes from sources, particularly governmental sources, in other countries, and the source of the information cannot be disclosed without serious consequences. When this bill goes to committee, as I expect it will, I hope that this particular phase of the matter will be discussed by those honourable senators who are concerned about it.

The regulations under this bill—

Senator Hicks: Would the honourable senator permit a question before he leaves clause 18? Subclause (3) reads:

> A declaration made under subsection (1) ceases to have effect two years after the day on which it was made.

I do not see any provision for the Cabinet's renewing its declaration, or is it assumed that the Cabinet may do that?

Senator Connolly: I would think that if the application is rejected, then it would have to be made again. If the Cabinet refused to allow the certificate to issue, then the two-year period would begin again. At least, that is the way I read it. But that point did occur to me before, senator.

May I say, honourable senators, that the regulations proposed under the act will provide discretions on humanitarian grounds both for the minister and for the Cabinet with respect to such matters as, for example, elderly parents. For instance, a couple may come to Canada with their young family. After they have become established they often send for the parents of one or both of them. In many

cases, these young people come from countries like India, China, Czechoslovakia and, perhaps more especially, Hungary, whose language has no common basis with English or French. I believe I am right in all of the examples I have cited. When the parents subsequently arrive at age 50, 60 or 70 years, they have great difficulty learning one of the official languages. In the case of elderly people, it is not entirely necessary for them to learn one of the languages, and there is to be some discretion allowed. In other words, the rule is of the sort which can be modified, and it would not be applied in the case of the older people as it would in the case of the younger.

The word "judges" is used in this bill to apply to the men and women who preside over the citizenship courts. They are being called judges for the first time, although they are not to be appointed under the Judges Act. Also, under clause 42, the citizenship judges will be entitled to vote.

Honourable senators, at times we have in this country people who, although they are not landed immigrants, are here perfectly legally for a period of two or three years. For example, students may spend two or three years in Canada and then return to their own countries. Such people may decide, once they have returned to their own countries, that they would like to come back and settle in Canada. It is felt, if they do become landed immigrants, that some of the time they spent here originally should count towards the three-year waiting period required of a landed immigrant for Canadian citizenship. The bill proposes that 50 per cent of the time they spent here orginally—as a student, for example—will count towards that three-year period.

I come now to a point which I think will interest Senator Norrie particularly, since she raised a question in this chamber concerning it about a year ago. I refer to the alien ownership of land. The proposal in the bill is that the federal power in respect of legislation touching aliens in relation to ownership of land, which is part of section 91 of the British North America Act, should be delegated to the provincial authorities. I should point out that under the common law an alien has no right to own land in a country of which he is not a citizen.

Senator Choquette: Can he not pay a special tax and become an owner?

Senator Connolly: Actually, I was just interested in the general proposition at common law, that an alien is not entitled to own land. Of course, the rights of the alien can be varied by statute, and that would, as a consequence, vary the common law. However, I am told that there are three options available in respect of the restrictions on the ownership of land—I am sorry; I cannot read my notes here.

Senator Choquette: I thought it was only doctors who could not read their own writing.

Senator Connolly: There is no doctor whose writing is as bad as mine. I think I have it now. A province has really three options. The province can allow the owner of land to sell it to anyone. If that is in the provincial statute, the common law is abrogated to that extent and an alien can own land.

[Senator Connolly.]

• (1500)

In the *Morgan Jacobson* case, which was recently decided before the Supreme Court of Canada—and which I believe is a case that originated in Prince Edward Island—the province was found to be within its rights in restricting ownership of land to residents of the province. That situation can create hardships, of course. There may be people in Nova Scotia, for example, who want to own land in New Brunswick, and vice versa. Certainly, there are lots of people in Ontario who want to own, and in fact do own, land in Quebec, and vice versa. A restriction of ownership of land to the residents of a province, although it is a provincial right, is perhaps a difficult proposition to carry in a country like this.

The third option available to a province is that it may forbid the sale of land within the province to aliens, while it allows its sale to citizens or landed immigrants normally resident in Canada. That is an option that I think is readily understandable, and it is the one that is proposed in this bill. In other words, in the case of Prince Edward Island, that province may decide not to hold to the line of refusing the right of other Canadians or landed immigrants to own land within its borders, but may very well say, "We will not have either foreign individuals or foreign corporations buying up our land." Provinces will have the right, by delegation of the exclusive jurisdiction of the federal authority under this bill, to legislate in respect of land ownership by aliens within their boundaries.

Honourable senators, I am not quite sure to which committee this bill should be referred. Perhaps it should be considered by the Standing Senate Committee on Legal and Constitutional Affairs.

Senator Goldenberg: It is the Foreign Affairs Committee that deals with immigration.

Senator Connolly: This is not immigration legislation. It deals with citizenship.

Senator Goldenberg: I know, but it is related to immigration.

Senator Connolly: Well, I shall not make that motion today, because I am sure there will be other speeches. When the time comes, I shall make the appropriate motion.

Senator Choquette: Before I adjourn the debate on behalf of an honourable senator on this side of the house, I would like to ask a simple question.

There are many Canadians born in this country, whose families have been Canadians for generations, who would like a certificate of citizenship. I remember that when the Canadian Citizenship Act first came into force, people exhibited their new citizenship certificates with great pride, but not many Canadian citizens do that now. In the event that I wanted a citizen certificate, what procedure would I have to follow?

Senator Connolly: I cannot answer too many questions in this regard, because it is a complicated area, but that particular question is easy for me to answer. If you do not mind a personal reference, a few years ago, just before I left the government in 1968, I was Acting Secretary of State, and in that capacity I had to sign citizenship certificates. I said to the official, "I haven't got a certificate. How do I get one?" He replied, "What you do is to produce your

birth certificate, and if it shows you were born in Canada you will get one." The next day he returned with more certificates and he had one made out for John J. Connolly, and I signed it, "John J. Connolly, Acting Secretary of State."

Senator Bell: Honourable senators, may I ask a question before the debate is adjourned? Before doing so, however, I should like to thank Senator Connolly for his very interesting and helpful explanation of this legislation. Incidentally, on the question as to which committee this bill should be referred, I notice that the title page of the House of Commons committee proceedings is headed: "Standing Committee on Broadcasting, Films and Assistance to the Arts."

My question is in respect to clause 32, which provides:

> Any law of Canada and any regulation made thereunder shall, unless it otherwise provides, have effect in relation to a citizen of Ireland who is not a citizen of the Commonwealth in like manner as it has effect in relation to a citizen of the Commonwealth.

Is that the only exception, so far as the honourable senator knows?

Senator Connolly: Of course, the Irish are very exceptional people, and in my view there should always be, if possible, a clause about them in every bill.

I think that in the Republic of Ireland, which, of course, is not a member of the Commonwealth, there may be a great many people who also have British citizenship, and under this clause they would be entitled to have the status of a citizen of the Commonwealth in Canada. I think that is the simple explanation.

Let me embellish it just a little. I think that if a citizen of Eire—that is to say, the south of Ireland—came to Canada as a landed immigrant, that person, to become a Canadian citizen, would have to go through the same procedures as any other landed immigrant.

Senator Greene: You sure make it tough.

Senator Burchill: In the honourable senator's very interesting address he indicated the number of people who had left Canada and gone to the United States. Are there any figures concerning the number of people who have come from the United States to Canada?

Senator Connolly: I am afraid I do not have that information, although the number would be considerable. I would think the migration from the United States to Canada, right from the very beginning, would be huge. I am thinking not only of the flow across the border in the West, but also of the flow back and forth in the Maritimes which has been going on for years. I was not looking for exhaustive figures with respect to any of these migrations. I simply used the figures I did to point up the relationship between immigration and citizenship.

On motion of Senator Choquette, for Senator Yuzyk, debate adjourned.

The Senate adjourned until Tuesday, May 4, at 8 p.m.

29555—80½

THE SENATE

Tuesday, May 4, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

ANTI-INFLATION BILL

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-89, to amend the Anti-Inflation Act.

Bill read first time.

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

Senator Perrault moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

NATIONAL FORESTRY WEEK

Hon. Louis-J. Robichaud: Honourable senators, with leave I should like to make a brief statement about National Forestry Week. By this time I presume all honourable senators have received a plant such as that which I am exhibiting here. I should like to explain to you where this plant comes from. It is called a super tree.

This week is National Forestry Week in Canada. It is sponsored by the National Forestry Association, in cooperation with the regional associations, which are mainly provincial. The prime objective of National Forestry Week is to focus attention on the need to manage Canada's forests wisely, for present and future use. This year's theme is "Forests—Part of All Our Lives."

[*Translation*]

In French, "Arbre, source de vie". The super trees which have been presented to us, or which have been presented to honourable senators, come from the Petawawa experimental station and are seedlings of white spruce.

By the way, the station is under the authority of the Forestry Directorate of Environment Canada. These seedlings will grow 20 times taller than any other experimental white spruce seedlings.

[*English*]

I might add that cooperative studies of genetic variations in white spruce were initiated more than 20 years ago by the Petawawa Forest Experimental Station and the Ontario Ministry of Natural Resources, with support from other provincial forest services and the forest industry. The seeds came from 91 different sources in Ontario, Quebec, the Maritime provinces and the northeastern states of the United States. The seeds were planted in 11 stations in Ontario, with the objective of identifying the sources most suitable for reforestation purposes. We all know, of course, that the white spruce is one of Canada's most important species for the production of pulp and paper.

The best seed sources yielded trees more than 20 per cent taller than those from local sources at the 11 experimental plantations. I am also informed that 30 years' experience shows that they grow 20 per cent faster than any other species of spruce. These seeds were mainly from eastern and southwestern Ontario, and the most impressive seed came from the Pembroke area.

● (2010)

Honourable senators, I hope that you will plant these seedlings in your backyard or in any other propitious place that belongs to you, and I hope you will watch them grow.

As I said, this year's theme of National Forest Week is "Forests—A Part of our Lives." This emphasizes the past, present and future of this country and its people, and how they are tied closely to the vast forests covering so much of Canada. Forests are indeed part of our lives today. It is said that approximately 5,000 products are made from wood, but this is a modest estimate of these items which provide the necessities and comforts of modern living. Furthermore, Canadians are an outdoor people and their vacations are often closely linked with our forests. Watersheds are protected and wildlife is sheltered by them. Our jobs, our pleasures, our environmental stability and variety depend greatly on our forest heritage.

Unlike mines and oil wells and things of that nature, our forests provide us with a renewable resource, and I hope that all senators will help to renew our forest resources by planting the seedling they received. If you need any instructions on how to take care of them, I am available as a doctor, as a veterinarian or as an expert in forestry to tell you how to do it.

Hon. Senators: Hear, hear.

DOCUMENTS TABLED

Senator Perrault tabled:

Report by the Tariff Board, pursuant to the Inquiry ordered by the Minister of Finance respecting Pleasure Craft, Reference No. 149 (English and French texts), together with a copy of the transcript of evidence presented at public hearings (English text), pursuant to section 6 of the Tariff Board Act, Chapter T-1, R.S.C., 1970.

Report of Air Canada for the year ended December 31, 1975, pursuant to section 27 of the Air Canada Act, Chapter A-11, R.S.C., 1970.

Capital and Operating Budgets of the Canadian National Railways for the year ending December 31, 1976, pursuant to section 37(2) of the Canadian National Railways Act, Chapter C-10, and section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C.,

1970, together with copy of Order in Council P.C. 1976-891, dated April 13, 1976, approving same.

Copies of financial statement on the operation and maintenance of the Great Slave Lake Railway for the year ended December 31, 1975, together with a statement showing the net capital investment as at December 31, 1975, pursuant to section 9, Chapter 56, Statutes of Canada, 1960-61.

Copies of a document entitled "Economic Review, April 1976", issued by the Minister of Finance.

Report on Prairie Farm Rehabilitation and Related Activities for the fiscal year ended March 31, 1975, pursuant to section 10 of the Prairie Farm Rehabilitation Act, Chapter P-17, R.S.C., 1970.

EXTERNAL AFFAIRS

REFUSAL BY PASSPORT OFFICE TO ACCEPT $50 and $100 BILLS—QUESTION ANSWERED

Senator Perrault: Honourable senators, on April 7, Senator Sparrow asked the following questions:

1. Is it a policy that the passport office of the Department of External Affairs in Ottawa does not accept $50 and $100 denominations of Canadian currency bills for payment of services in the issuing of passports?

2. What are the reasons for not accepting this Canadian currency?

3. Who is responsible for establishing such a policy?

4. Are there other government departments which abide by the same policy and refuse to accept Canadian currency?

5. If such a policy was established because of the danger of receiving counterfeit currency, does the government recommend that no Canadian firm or individual accept such currency?

I have the following answer: As a result of the acceptance of a counterfeit $50.00 bill for the payment of a $5.00 passport service in Montreal, the regional passport offices and the office in Ottawa were given instructions in February 1976, by the director of the passport office, designed to reduce the possibility of a recurrence and to recover the funds if a loss of this nature occurred in the future. The regional offices were advised that known examples of counterfeiting in these denominations were entirely in old style bills, particularly those with 1954 dating. Offices were asked to discourage presentation of such bills in cases where their value exceeded the cost of the passport service in question and were advised to maintain a record of large denomination bills accepted so that recovery action could be taken if they proved counterfeit. It appears that this policy was interpreted too rigidly, and all offices have been instructed to accept bills of all denominations and maintain tracing records as required.

CITIZENSHIP BILL

SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, April 29, the debate on the motion of Senator Connolly (Ottawa West) for second reading of Bill C-20, respecting citizenship.

Hon. Paul Yuzyk: Honourable senators, the wholehearted participation of her diverse population in the great war effort of World War II was proof that Canada had become a dynamic, united nation which had won considerable récognition in international affairs. At that time the composition of Canada's population was approximately 50 per cent British origin, 30 per cent French origin and 20 per cent of various other origins, preponderantly European. The loyalty and cooperation of all these ethnic groups was the very essence of a strong Canadian spirit and pride. The government of the day and Parliament felt that the time had come for the enactment of the first Canadian Citizenship Act.

In his introduction of Bill C-20, respecting citizenship, Senator John Connolly brought to our attention that we are marking the 30th anniversary of the passage of the Canadian Citizenship Act, in 1946. The Honourable Paul Martin, Secretary of State for Canada at that time, and who recently was Leader of the Government in the Senate, piloted the bill in the other chamber. This was the first act of its kind within the Commonwealth. Most of the other nations in the Commonwealth, including the United Kingdom, have subsequently passed similar measures, thus making Canada a pioneer in this field.

The Canadian Citizenship Act came into effect on January 1, 1947. To mark the occasion, the government held a ceremony in the Supreme Court building on January 3. There, before the body of judges in their colourful robes, the first citizenship certificates were granted. Prime Minister W. L. Mackenzie King received the first certificate, followed by Giuseppe Agostini, the renowned conductor of Italian origin; Kjeld Deichman of German origin; Wasyl Eleniak, aged 87, the first Ukrainian settler and a leader of the Ukrainian movement of immigrants to Canada; Mrs. Mynarski, the Polish Canadian lady, wearing the coveted Victoria Cross in honour of her son, fallen in the war; and Yousuf Karsh, premier photographer, of Armenian origin. The new ceremony involved in the granting of citizenship certificates impressed on the individual a solemn feeling of membership in the great Canadian family, recognizing the equality of all Canadians.

• (2020)

Senator Connolly noted that from 1953 to 1975, over 1,600,000 certificates have been issued, mainly to new immigrants in this country. The Secretary of State urges all Canadians, particularly those born in Canada, to take pride in their citizenship and acquire citizenship certificates for their use in Canada and abroad.

The original Citizenship Act has been amended many times since its inception. The measure now before us, Bill C-20, purports to meet modern conditions in Canadian society. I commend Senator Connolly for his full and lucid explanation of the principal clauses of this bill. It would be difficult to find his equal in this respect, and I am sure that all honourable senators are grateful to him for his fine performance.

Hon. Senators: Hear, hear.

Senator Yuzyk: It makes easier my task as a critic, and of those who will follow in this debate.

When the bill was introduced in the other house on May 21, 1975, I was one of those who opposed its immediate

passage. At that time, the Special Joint Committee of the Senate and the House of Commons on Immigration Policy was conducting hearings across the country. The possible changes in Canada's immigration laws would involve also the question of citizenship. The government apparently realized that the delay was necessary. The report to Parliament of this committee was presented on November 6, 1975. We now have the advantage of noting its recommendations which have a bearing on citizenship.

First, I should like to comment briefly on some positive aspects of the bill. The lowering of the eligibility age from 21 to 18 corrects a deficiency that should have been brought in with the amendment of the Canada Elections Act. Another deficiency corrected by this bill is that citizenship can be granted to a child born outside of Canada if one of his or her parents is a Canadian citizen. This makes female members of our society equal with male members, which is only right and proper.

The main feature of Bill C-20 appears to be the reduction of the waiting period for residency requirements and qualifications of landed immigrants. The reduction from five years to three years from the time of receiving landed immigrant status, when he or she can apply for citizenship and become a full-fledged Canadian citizen if he or she meets the requirements, has mixed support.

The proponents of the three-year period argue that the shorter period reduces the stigma of a long period of waiting, which makes immigrants feel that they are looked down upon and regarded as second-class citizens for some time after. They feel that prospective citizens should not be penalized if they are ready to apply before the five-year period is up. Furthermore, we now live in a society of rapid communications and telecommunications which provide a wealth of information to every potential citizen—a strong argument for a minimum waiting period. This appears to be practical, particularly when it is applied to persons who have been admitted to Canada from countries having a similar form of government to our own. Such people can adapt themselves readily in our country.

Many countries, such as Britain, the United States, West Germany, Belgium, Australia and New Zealand, to mention a few, have residency requirements of five years or longer. We must keep in mind, however, that Canada is one of the few countries of the world that can be termed a "receiving country." Senator Connolly stated that between 1947 and 1974, nearly 4 million people came to Canada as landed immigrants, of which only a small fraction went to the United States. In the last five years, immigration to Canada has stepped up. We have taken in about one million immigrants, nearly 5 per cent of our population. Most of the new immigrants are from Third World countries, many of which do not have, or did not have, a democratic form of government. We should also remember that, according to officials of the Department of Manpower and Immigration, there were over 200,000 illegal aliens in Canada, of which only some 40,000 came forward during the recent amnesty.

We should study these figures and facts, and their impact on the future of Canada. As a receiving country, our citizenship requirements have a bearing on our lives and way of life different from that in those countries which receive few landed immigrants. Canada is one of the last countries in the world that is still allowing a relatively large influx of immigrants from other countries.

[Senator Yuzyk.]

As I have mentioned, a considerable proportion of the new immigrants come from countries that have not experienced democracy and which have languages and customs, as well as religion and race, different from the preponderant majority in Canada. This is a new element. These immigrants, for the most part, find great difficulty in adapting themselves to our society and our values. Once accepted, they should be welcomed and given every opportunity to learn one of the two official languages, and to gradually fit into our society. In the case of such immigrants, however, the process is usually a slow one. Most of these people would require more than three years to become positive and constructive citizens of our country, assuming proper responsibilities. We must ask ourselves if the change from five years to three years will ensure that such immigrants will truly become Canadians, proud of the Canadian democratic life, and capable of making a contribution to Canada in such a short time.

In my view, the Senate should study the merits of reducing the residency requirements of landed immigrants from five to three years before final passage of this bill. The bill proposes that immigrants without landed immigrant status—such as students who have been in this country for a few years, and who decide to come back from the countries of their origin to settle in Canada—be credited with 50 per cent of the time they spent here originally towards the three-year residency requirement. This, however, could apply to illegal immigrants, who sometimes have criminal records, and to other cases, and serious repercussions could follow. I feel that this matter should also be seriously considered in committee, at which stage we could get the necessary information from departmental officials. Another area of concern for the committee would be applicants deemed to be security risks, and the whole question of "good character."

The proposed legislation will establish the title of "citizenship judge" for those who will administer the citizenship courts. They are not appointed under the Judges Act and will, therefore, be entitled to vote. Citizenship courts will be made accessible, especially during evening hours and on weekends, so that people will not have to take time off from work. This is most commendable. The upgrading of the citizenship judge is very important. I find an excellent expression of Canadianism in the message of a citizenship judge on the occasion of the granting of citizenship to new citizens, which should be an inspiration to all Canadians:

● (2030)

> This nation has been enriched by the loyalty and sacrifice of persons who have come from many lands and traditions. To each this nation has given a chance to live and grow and share in the common wealth. From each Canada has accepted the gifts of different cultures and made them into an enduring heritage. From sea to sea, this rich heritage is yours, as it is mine, because we are Canadian.

The Canadian Bill of Rights guarantees the basic rights of Canadian citizens and is, therefore, fundamental to Canadian citizenship. Let us keep in mind the pledge appended to the Canadian Bill of Rights, which was so

eloquently read by Prime Minister John G. Diefenbaker in the House of Commons on July 1, 1960. I quote, although perhaps not with Mr. Diefenbaker's eloquence:

> I am a Canadian, a free Canadian, free to speak without fear, free to worship God in my own way, free to stand for what I think right, free to oppose what I believe wrong, free to choose those who shall govern my country. This heritage of freedom I pledge to uphold for myself and all mankind.

The rights, privileges and responsibilities of Canadian citizenship are many and precious, instilling in us pride and gratitude. Parliament, in 1971, unanimously adopted the official policy of multiculturalism, thus making Canada a bilingual and multicultural nation. The recognition of the cultural values of all Canadians makes all her citizens equal, and Canadian citizenship attractive. Unity in continuing diversity makes Canada a strong and dynamic nation, contributing to peace, prosperity and happiness for her citizens and the world.

With further possible improvements, the new act will undoubtedly encourage potential citizens to acquire Canadian citizenship, which basically is the main purpose of this piece of legislation. Both sides of the Senate, I am sure, will approve the passage of this bill.

On motion of Senator Forsey, debate adjourned.

SMALL FARM DEVELOPMENT PROGRAM

FARM MANAGEMENT CONSULTANTS—INQUIRY ANSWERED

Senator Michaud inquired of the government pursuant to notice:

> 1. How many farm management consultants under the Small Farm Development Program are actually assigned to each province of Canada?
>
> 2. How many farmers does each consultant serve in each of the following provinces:
>
> (a) New Brunswick,
>
> (b) Nova Scotia, and
>
> (c) Prince Edward Island?

Senator Perrault: Answered.

> 1. As of the 12th of April the Small Farm Development Program had the following number of Farm Management Consultants/Specialists on staff in the various provinces of Canada.

British Columbia	5
Alberta	14
Saskatchewan	0
Manitoba	8
Ontario	0
Quebec	0
New Brunswick	0
Nova Scotia	0
Prince Edward Island	6

> In the provinces of Saskatchewan, Ontario, Quebec and Nova Scotia the Federal/Provincial Small Farm Development Agreements preclude the use of federally seconded staff. In New Brunswick, we have had several farm management field officers on staff during the period 1972 to 1975. However, these positions are, at the moment, vacant. We are now actively recruiting for two farm management consultants to work in New Brunswick. We are also recruiting for an additional person in British Columbia.
>
> 2. Of the three Maritime provinces mentioned in part 2 of the question, we currently have Farm Management Consultants in only one, Prince Edward Island. During the fiscal year 1975-76, the six Farm Management Consultants in Prince Edward Island reported working with 573 clients. Each consultant in Prince Edward Island has worked with an average of approximately 96 clients this year.
>
> A study conducted by the Small Farm Development Program indicated that, based on 1973 data, the potential clientele of the program approached 2,600 in New Brunswick, 2,400 in Nova Scotia and 2,000 in Prince Edward Island. Farm Management Consultants may provide services to any of these farmers.

THE CONSTITUTION OF CANADA

CORRESPONDENCE BETWEEN THE PRIME MINISTER OF CANADA AND THE FIRST MINISTERS OF THE PROVINCES ON THE SUBJECT OF PATRIATION—DEBATE ADJOURNED

Hon. Eugene A. Forsey rose pursuant to notice:

> That he will call the attention of the Senate to the correspondence between the Prime Minister of Canada and the First Ministers of the provinces on the subject of the patriation of the Constitution of Canada.

[*Translation*]

Honourable senators, I would have preferred to deliver at least most of my speech in French, lest I be accused of being an Anglo-Saxon bigot or prejudiced in any way whatever, but I shall refrain for two reasons: first, because of the inadequacy of my French, second, because the English translation of most of the small speeches I have made until now in this Chamber, in my so-called French, has been very poor. Too often the English translation has been so dreadful, so lamentable that I feared my English-speaking fellow citizens would say: "Well, the poor old man, we already knew he was also unable to speak French correctly but now we know he is unable to deliver a speech in good English". And I do not want my English-speaking colleagues to believe that I have become completely stupid.

This is why I will deliver at least most of my speech in English. Not only will it be clearer but also more pleasant for everybody, whether French- or English-speaking.

[*English*]

The first thing I want to say about this proposal, which the Prime Minister has advanced for the patriation of our Constitution, is I think we can take it for granted that nearly everyone in this country is in favour of patriation. I was perhaps rash enough to say, in a television question and answer discussion, that I thought everybody was in favour of it, and I was astounded to receive a number of letters berating me in strong terms for having made this sweeping assertion. But I am inclined to think that I was not going much beyond the facts.

Certainly, to the best of my belief, all parties in this country have been in favour of patriation of the Constitu-

tion for a very long time. We have, of course, made, and I think with the general approval of all parties, a series of efforts to achieve this over, now, very nearly half a century.

The second thing that I want to say is that contrary to what appears to be the belief of some enthusiasts on this subject, I think the terms of patriation are important. I had to listen to a discussion elsewhere, not among senators but among some other people, where there was a tendency to treat the subject with what seemed to me levity and frivolity, to say that it did not really matter what the terms of patriation were, that this was a great symbolic gesture like the adoption of the new flag a few years ago, and it would be universally popular, and there was no use bothering about trifling objections raised by lawyers or political scientists or other lower forms of pond life, in the opinion, apparently, of these gentry.

I am not prepared to subscribe to that. I think the question of patriation of the Constitution, like the question of revision of the Constitution, like the question of adopting a new Constitution, is of extreme importance and that the form which it takes is also of great importance.

Some years ago I expressed this view in terms which I shall venture to quote:

> The first basic fact we must get clear is that our existing Constitution is not a piece of old furniture, or an old top hat, or a Victorian system of plumbing. It is something which grew out of the needs of the pre-Confederation colonies, which gave us life as a people, which has shaped our life as a people, which has adapted itself to our changing needs as a people. It has not remained what it was in 1867. It has grown, in some respects almost out of all recognition: a little by formal amendment; much by judicial interpretation; most of all, perhaps, by the development of new habits, new customs, new "conventions," new administrative arrangements, especially inter-governmental arrangements. Perhaps it now needs further formal amendment. But let us never forget that, because a constitution is what it is, pervading and shaping the lives of every human being in the community, changing it by formal amendment is an immensely serious business. It is not like getting a new hair-do, or growing a beard, or buying new furniture or new clothes, or putting in a new bathroom. It is more like marriage—

In the words of the Anglican Prayer Book.

> —"not by any to be enterprised, nor taken in hand, unadvisedly, lightly, or wantonly... but reverently, discreetly, advisedly, soberly, and in the fear of God." What we are dealing with in constitutional change is not paper or things. It is human lives.

● (2040)

Having said that, I want to make a preliminary observation before discussing specific points in the proposals which the Prime Minister has laid before the first ministers of the provinces. I want to say at once that I do so with considerable diffidence, conscious as always, I hope, of the fact that I am not learned in the law and that this chamber contains a considerable number of eminent lawyers for whose knowledge and experience and insight I have the most profound respect.

[Senator Forsey.]

I ventured to suggest in a letter which I sent to a certain number of my colleagues that it would be better, perhaps, if this subject were taken up by one of these gentlemen learned in the law, or by our colleague Senator Neiman, a lady learned in the law, for that matter, and that I should be perfectly prepared simply to sit and applaud, possibly to put in a small footnote here or there, if I felt that something had been left out, something of importance, or that some statement had been made which in my judgment, was open to question. As I did not get any volunteers I decided that I should go ahead and raise the question myself. But I hope it will be understood that I do so with due diffidence and with due humility.

I am not going to take up a position on any of the matters in question, but rather to raise questions, to raise doubts which have come up in my mind, possibly simply because of my limited knowledge. I shall be asking for light; I shall be asking for explanations; I shall be asking for reassurances; and I very much hope that the learned lawyers in the house, who are so eminently qualified to cast further light on this and perhaps to give reassurance or perhaps merely to underline doubts in some cases, will take an active and vigorous part in the debate which I hope will follow.

Now, the first substantive point that I want to raise is the question of the degree to which the provinces should be consulted as to this amending action, this patriation of the Constitution, or the degree to which their consent should be sought. Most of the amendments which have been made to the British North America Act since 1867 have been made without even consulting the provinces. The provinces, to the best of my belief, were never consulted until the Dominion-Provincial Conference of 1906 on the revision of the statutory subsidies provided by the British North America Act to the provinces. On that occasion British Columbia balked or jibbed and wanted a change, if I remember correctly, in the figures which the others were prepared to agree to. Nonetheless, the Parliament of Canada went ahead, by joint address from the two houses, and asked for the amendment. British Columbia made representations in London and succeeded in getting the words "final and definitive settlement" of the question removed from the amending act. It did not succeed in getting any alteration in the substance of the amendment, but it did succeed in getting those words deleted, without, I should think, very much practical effect, because the words "final and definitive" in relation to provincial subsidies are surely what Dr. Johnson said of second marriages: "a triumph of hope over experience."

Since 1930, however, every amendment which has been made to the British North America Act which directly affects the provinces—and I speak subject to correction, but this is what I believe—every amendment directly touching the provinces has in fact been asked for by the two houses of the Parliament of Canada only after the provinces have been consulted and have given their unanimous consent, or, in the case of the amendment returning the natural resources to the Western provinces, the consent of the governments and legislatures of the provinces concerned. Other amendments which did not directly touch the provinces—though one of them, the act which is now Section 91, head I of the British North America Act, was

considered by the provinces, some of the provinces at least, to affect them very profoundly, though indirectly—other amendments which did not directly touch the provinces have been passed simply on address of both houses of the Canadian Parliament to the British Parliament. The provinces have not been consulted and certainly have not consented.

Whether that establishes a constitutional convention, that on any amendment directly affecting the provinces unanimous consent of the provinces is constitutionally necessary, is, I think, open to some dispute. My own habit has been for some years to say that I thought it did establish such a convention, but some very good constitutional lawyers have remonstrated with me and have said that they don't think that that is so. And they have not only said, in effect, that the period over which this custom has developed is too short to establish a constitutional convention, but they have remonstrated also on the ground that it is really contrary to common sense that amendments desired by the overwhelming majority of Canadians should be subject to a veto by a province, let us say like Prince Edward Island or my native province of Newfoundland. And I hope nobody will say that I am anti the Atlantic provinces. They can scarcely say that of somebody who is the fifth generation born in Newfoundland and is part Nova Scotian and whose roots are nearly all in the Atlantic provinces, apart from some Quebec ancestors of whom I am very proud. But it does seem, on the face of it, somewhat absurd that if an amendment is generally desired by the overwhelming majority of the country it should be possible for one small province to interpose a veto, an absolute veto, and say, "Never, never, never. Only over the dead body of this province will this pass."

Well, there is, then, as the Prime Minister says in his letter to the first ministers, room for some difference of opinion about whether a convention as to the unanimous consent of the provinces is now part of the custom, the usage, the habit part of our Constitution; but there is certainly a very widespread opinion that in fact the provinces should all consent to amendments, and especially perhaps to a patriation amendment, one which would bring the whole process of amendment into Canada. I emphasize the words "the whole process" because, of course, a very large part of our Constitution is now legally, I think, amendable by an ordinary act of the Parliament of Canada. For instance, it would be perfectly possible to abolish the monarchy by an ordinary act of the Parliament of Canada, just as easily as we amend the Food and Drugs Act or the Criminal Code. It would be perfectly possible to abolish the Senate by an ordinary act of the Parliament of Canada in strict law, I think. I speak subject to correction, of course. Now, I don't say that that would be advisable, wise or constitutional in the British sense, but I do say that at present there is, as far as I can see, no legal impediment to an act of the Parliament of Canada abolishing the monarchy or abolishing the Senate or making any kind of change that the Parliament of Canada sees fit in the constitution of the Senate. After all, we have, in fact, twice since Section 91, head 1 came into effect in 1949, made alterations in the constitution of the Senate: first, by imposing the 75 year rule, and, second, by providing seats in this house for the Northwest Territories and the Yukon. But there are six classes of subjects of immense importance which still cannot be changed without a formal act of the British Parliament, even though the British Parliament always acts simply as a rubber stamp for what has been presented to it as the express wish of the two houses of the Parliament of Canada.

● (2050)

The question that arises, of course, is, upon what grounds will the two houses of the Parliament of Canada agree to make a request of the British Parliament for an amending act? This question, I think, is of prime importance in considering this whole matter of patriation.

Should we proceed with patriation without the consent of all the provinces? I do not think anybody wants to do this, but apparently the Prime Minister, at a pinch, is prepared to go ahead in spite of the objections of one or more provinces.

Senator Asselin: Impossible!

Senator Forsey: Senator Asselin shakes his head, but I think this has been made fairly clear. The Prime Minister is going to make one final attempt to get the consent of all, but he intimated at that Liberal convention in Quebec that he was prepared, at a pinch, to go ahead without the consent of all the provinces.

Senator Walker: May I ask the honourable senator a question?

Senator Forsey: May I finish the sentence first, Senator Walker?

I think the Prime Minister perhaps adapted for his use the famous phrase of one of his predecessors: "Not necessarily unilaterally, but unilaterally if necessary."

Senator Walker?

Senator Walker: What I was going to ask was, would it not depend on what province is holding out as to whether the Prime Minister would do this?

Senator Forsey: As far as I can tell, and from what I have heard—and I have no official information on this—it is probably at least two provinces; but I do not know. I understand the Province of Quebec would like to lay down certain pre-conditions for its consent to a patriation amendment, and I have heard that the Province of Alberta, also, has strong views about one particular matter; but I have no official knowledge of either of these possibilities. In one case I have only newpaper reports, in the other I have only rumours, and I should not like to base anything substantial on either of those two sources. But the question of how far the provinces should come into this thing, and how far their unanimous consent should be regarded as necessary, is one for the careful consideration of this house, which, under the Constitution, has always been supposed to have a special care for the interests of the provinces.

The second substantive point I want to make is that under all three options proposed by the Prime Minister in his letters to the first ministers of the provinces, unanimous consent of the provinces would be required before any substantive change could be made. The first of the options proposes simple patriation, and I am afraid the word "simple" there is as deceptive as it turned out to be in

the historic case which Senator Laird and most of the rest of us perhaps recall.

Simple patriation, which, as I understand it, would be simply—and there I go, you see, using that fatal word "simply"; shall I say "merely"?—the renunciation by the British Parliament of all jurisdiction over Canada in the future, would involve, in effect, an amendment or a series of amendments of the Statute of Westminister. Then the Constitution would be patriated and the power to amend would reside entirely in this country; but the "patriation act", if I may call it that, would contain a clause saying that no change should be made without the consent of the legislatures of all the provinces. That, as I understand it, is the first option.

The second option is that the patriation act should contain what I might describe as the formula in the Victoria charter, plus and minus. It is not simply the Victoria formula—and I shall come back to that rather later.

Incidentally, this may turn out to be, like a speech of mine on the Constitution that I made some years ago, a serial performance, because I do not want to weary honourable senators tonight, and I do not want to keep people away from watching the hockey game.

An Hon. Senator: It is over.

Senator Forsey: I do not know whether it is over or not, and I do not want to speak to an empty house.

The second option provides, as I said a moment ago, for patriation with the Victoria formula, plus or minus, or plus and minus, one might say more accurately; but with that formula not to come into effect until all the provinces have given their consent.

The third option is patriation with the Victoria formula, plus a considerable amount, and minus something, but, again, with the formula not to come into effect until all the provinces have given their consent.

I want to raise the question of whether it is desirable that we should write into a text of fundamental constitutional law a provision that any single province can totally block any future amendments. The Prime Minister, in one of his letters, speaks of a period during which it would be impossible to move without unanimous consent and says that he hopes it would not be a long period. Well, perhaps it is the difference in our ages which makes me less optimistic than the Prime Minister. It seems to me that experience has demonstrated pretty clearly that every time we come in sight of the promised land of patriation, one or more provinces will say, "Well, we might agree if certain pre-conditions are first satisfied." I am afraid that this may be an infinite regression. Even assuming that there is already a constitutional usage, or convention, or practice, or custom, that amendments directly affecting the provinces will not take place without unanimous consent, that means, as I have put it elsewhere, that we may be stuck in the mud now, and that it may be very difficult for us to move without unanimous consent; but there is always, at least, the theoretical possibility that the rest of the country might be so extraordinarily avid for some particular amendment that the mere opposition of a single province, like my own native province of Newfoundland, would be deemed insufficient to block the whole thing. But if we write this absolute veto for every single province into a text of fundamental constitutional law, and I emphasize the word "law", then we shall be stuck, not in mud, but in a block of solid cement. At least, that is my fear.

[Senator Forsey.]

It is possible that events may show that the public mind has become much more flexible on this, and that the provincial governments have become much more flexible than they have been in the past; but I am not very optimistic about it. I think this is another thing that we need to consider rather carefully before we take the plunge. I have heard some people say, "I'm in favour of patriation at all costs." Well, I am not in favour of patriation at all costs. Valuable as patriation may be, desirable as it may be, I think it is possible to pay too high a price for it. I think we should look at it very carefully, and should make our decision on the matter only with our eyes wide open, having weighed all the risks and all the difficulties, and arrived at a rational conclusion, which may well be that the risks are worth taking, but which also may be that on the whole the present situation is working out reasonably well in practice, and that therefore it might be desirable not to proceed further if part of the price is the legal, constitutional, fundamental condition that every province must consent to every amendment, or even the formula for amendment.

I now want to look at each of the options in turn. The first one is, of course, relatively simple to deal with—and I emphasize "relatively simple"—because it says that the whole process of amendment should be transferred to Canada with nothing further happening until the provinces have all consented. To quote precisely:

● (2100)

> —one could provide in the Address to the Queen that amendment of those parts of the constitution not now amendable in Canada could be made on unanimous consent of Parliament and the legislature—

I think that is a misprint for "legislatures."

> —until a permanent formula is found and established.

Then he goes on and admits that:

> In theory this approach would introduce a rigidity which does not now exist, since at present it is the federal Parliament alone which goes to Westminster, and the degree of consultation of or consent by the provinces is a matter only of convention about which there can be differences of view.

I think there is nothing much more to say about that than I have already said, that it seems to me to introduce a quite extraordinary degree of legal rigidity which does not now exist. Whether that is desirable seems to me to be somewhat questionable.

The second option which the Prime Minister, I think justly, calls "preferable" would be, he says:

> —to include in the action a provision that could lead to the establishment of a permanent and more flexible amending procedure. That could be done by detailing such a procedure in our Joint Address and having it included in the British legislation as an enabling provision that would come into effect when and only when it had received the formal approval of the legislatures of all the provinces. The obvious amending procedure—

He goes on:

> —to set forth would be the one agreed to at Victoria in application to those parts of our constitution not now amendable in Canada.

And he refers to Part I of the "Draft Proclamation" which he attached to this.

> This could be with or without modification respecting the four western provinces.

There has been some suggestion that the requirement of the Victoria formula for the consent of two Western provinces with at least half of the population of the four would not be necessary. Some people have said, "Why not just make it two of the four Western provinces as the formula did for the Atlantic provinces—two of the Atlantic provinces?"

Well, now, I said this involved the Victoria formula "plus or minus." The Victoria formula provided that amendments which were not now possible under the terms of 91(1), with certain exceptions which I shall come to in a moment, that amendments of this kind could be made by an address from both houses of the Parliament of Canada with the consent of the legislature of any province which had at the moment, or ever had had, 25 per cent of the total population of the country, and it was very carefully phrased so that if, for example, Ontario's proportion of the population of Canada ever dropped below 25 per cent, Ontario would still have a veto. If, on the other hand, the population of Alberta or British Columbia ever rose above 25 per cent of the total, then it would automatically acquire a veto for itself. But this, in effect, at the moment, would have meant that any amendment under the Victoria formula would have required the assent of the Province of Ontario and the assent of the Province of Quebec, and then, the formula went on, and the assent of the legislatures of two of the Atlantic provinces and the legislature of two of the four Western provinces with half the population of the four.

But the Victoria formula also included a provision, an elaborate provision, respecting certain features of the Constitution which can now be amended simply by action of this Parliament, without any reference to Great Britain. It would have brought under this elaborate system of vetoes for Ontario, Quebec, two Atlantic provinces and two Western provinces—it would have brought under that the position and functions of the Queen, the Governor General, the Lieutenant Governors and certain features of the constitution of the Senate. These things would have been taken out, in effect, of the present 91(1) and put into a separate category where they would have required the assent not merely of the Parliament of Canada but of a number of the legislatures of the provinces, in effect, of six provinces including the two largest ones, two Western and two Eastern. That disappears from Part I of this proposal. So that in effect if the country, if the provinces, if everybody accepts option 2, we should still be leaving the position of the monarchy, the position of the Lieutenant Governors, the position of the Governor General, the position of the constitution of the Senate, wholly at the mercy, legally, of the Parliament of Canada. This, I think, is an important difference from the Victoria formula. Whether it is an improvement or otherwise is a matter of opinion but some people who, like myself, are ardently in favour of the preservation of the monarchy welcomed that particular feature of the Victoria formula because, we said, it makes the monarchy safer. Some of us who are ardently in favour of the preservation of the Senate, whether in its existing or some reformed form—and I must confess that most of the reforms proposed for the Senate, it seems to me, would make it worse rather than better—some of us, however, who felt that there is value in having a second chamber, an effective second chamber, welcomed the safeguards provided by the Victoria formula for the existence and constitution of the Senate and felt that it was desirable that changes in a matter so important to the whole country and particularly, perhaps, to the provinces, should not take place without the broad general consensus which the Victoria formula would have provided.

But if you get option 2, that particular safeguard for these particular institutions, which some people, of course, would like to get rid of completely and other people would like to preserve, and yet others would like to modify in some way, that particular safeguard disappears, and I think this is a point that is worth noting and is worth studying.

Perhaps it is desirable. Perhaps it is even, if not intrinsically desirable, a necessary part of the price which we have to pay for that patriation which we all hope for.

Now, option 3 is the Victoria formula coming into effect only upon the unanimous consent of all the provincial legislatures—the Victoria formula with that safeguard I have just mentioned left out, and with a series of other things written in, some of which were agreed to at Victoria and some of which were not. I think it is important to emphasize the differences from the Victoria formula because an argument is often made that this should be all perfectly easy because at Victoria all the provinces agreed to the Victoria formula, to the Victoria charter, except that Quebec said, "Before we are prepared to give our final and definitive approval to this, we want certain substantive changes made." I think that at the time the chief one, at all events, was with regard to certain features of social security, a matter which has since been adjusted, as I understand it, by administrative arrangements and legislative arrangements between the Government of Canada and the Government of Quebec and the Parliament of Canada and the Legislature of Quebec.

So we are not being asked now to incorporate the Victoria formula even with all the various features which were included in the Victoria charter in addition to the specific formula of amendment. This time we are being asked to consider adopting the Victoria amendment formula minus those particular safeguards I mentioned which would narrow the scope of section 99(1) with, however, also the provisions of the Victoria formula respecting the Supreme Court of Canada. I think these are identical with those which appear in the Victoria charter. That is called Part II of the draft proclamation dealing with the Supreme Court of Canada. I am not frightfully enamoured, myself, of the very elaborate procedure which is laid down there, but it is something which I would certainly be prepared to take if it is part of the price of getting "patriation." It comes a little bit, I think, within the celebrated English countryman's phrase: "It pleases 'e and it don't hurt Oi." It pleases some who want this thing done and I don't think it

would substantially interfere with the effectiveness of the Supreme Court of Canada.

● (2110)

Some people are nervous about this, because they say it writes into the Constitution the fixed number of nine judges—I have heard this from Westerners particularly and I think it might also come from some critics in the Atlantic provinces—it writes into the Constitution the figure of nine judges. It writes in the figure of three judges from the province of Quebec and I don't think anybody would have any objection to that. But, say some Western critics, this means that there are, by custom, always three from Ontario and probably will be in the future, so this means, in effect, there would be only three left over for the Western provinces and the Atlantic provinces together. The same critics say that some years hence, when the balance of population has shifted considerably, the Western provinces may have a much more important, a much larger proportion of the total population of the country, the Supreme Court may have a great deal more to do and it might be desirable to increase the size of the Supreme Court so as to provide an extra judge or so to be chosen from the Western provinces and the Atlantic provinces and this would become very difficult. Now, of course, we can increase the size of the Supreme Court by an ordinary act of Parliament. That rigidity which would be introduced here may be desirable, or may be undesirable, again. That is a matter of opinion, but I think the point that is made by some of the Western critics is perhaps worthy of consideration.

Now then, the third part of the draft proclamation, and this is a very important and essential part of the third option, is headed Language Rights. I think a careful comparison of the provisions of Part III with the corresponding provisions of the Victoria charter will show that there have been some important changes which deserve, perhaps, very careful consideration. The language rights embodied in the Victoria charter—and I'm sorry that I forgot to bring down with me my copy of it—are limited in certain ways in which they do not appear to be limited in Part III of the draft proclamation. I should particularly point out, I think, that Part III, in articles 31, 32 and 33, would appear on the face of it, perhaps, to make some change in section 133 of the British North America Act, which at present provides for certain limited but important rights for the English and French languages in the Parliament of Canada and the courts set up by the Parliament of Canada and in the legislature and courts of the province of Quebec. But if you look at article 31, for example, you now find:

> A person has the right to use English and French in the debates of the Parliament of Canada.

Well, that is in section 133 already. Article 32 provides that:

> The statutes and the records and journals of the Parliament of Canada shall be printed and published in English and French; and both versions of such statutes are authoritative.

That also is simply a re-enactment of section 133. Article 33 provides that:

> A person has the right to use English and French in giving evidence before, or in any pleading or process in the Supreme Court of Canada and any courts established by the Parliament of Canada, and to require that all documents and judgments issuing from such courts be in English or French.

Well, that is simply a slightly different form, I think not essentially a different form, of section 133 again. But in all these three articles the part of section 133 which deals with the legislature and the courts of Quebec is omitted. Now, I don't know, not being a lawyer I can't say, whether this would be taken by the courts to indicate that articles 31, 32 and 33 supersede section 133 of the British North America Act, are considered to amend it, or whether they would leave section 133 in full force and effect; I simply don't know.

I should, perhaps, have prefaced what I was going to say about both Part III, Language Rights and Part IV, Protection of the French Language and Culture by saying that I am most heartily in favour of the preservation and development of the French language and culture. I take second place to no one, certainly no one of English speech and I think no one of either language, in my desire to see that end accomplished. But, on the other hand, I am a little nervous—and this perhaps is where my past history as a member of the English-speaking minority in Quebec for some 16 years shows—I am a little disturbed by the possibility that the guarantees which now exist in section 133 for the rights of the English language in the province of Quebec, I am a little nervous lest those rights may be abridged by articles 31, 32 and 33 of the draft proclamation. Now, that particular uneasiness, that disquiet, may be completely without foundation. I rather think I see signs that Senator Flynn is about to rise and tell me that I am talking through my hat, that there is no danger, but I would just like to be sure, and this is one of the reasons why I hope that distinguished lawyers like Senator Flynn and a variety of others whom I might mention—I mentioned Senator Flynn merely because I thought he showed signs of rising to his feet to shake his head in magisterial fashion at me and tell me that it was high time I refrained from exposing my ignorance—but various distinguished lawyers in this house, I hope, will give this their attention and give me the reassurance I should like to have. I doubt that it is the intention of the government to abridge in any way by this draft proclamation the rights of the English language in the province of Quebec, but I should simply like to be reassured.

There are other details in this Part III dealing with language rights which are somewhat different from those in the Victoria charter and, I think, go somewhat beyond the rather restrictive provisions of the corresponding part of the Victoria charter but I shall not attempt to go into those now. They are rather technical and they would probably be much better dealt with by somebody learned in the law and I hope that if the Senate decides to send this question to a committee, as I hope it will, that matter would be given attention and that the details will be scrutinized with great care.

Then we come to a further addition to the Victoria charter, Part IV, Protection of the French Language and Culture. Now, as I said a moment ago, no one could be more heartily in favour of this than I am, but at the same time I think it may be necessary to take a rather careful

look at the precise terms which are put down here in this particular part, because you find that it says:

> The Parliament of Canada, in the exercise of powers allotted to it under the Constitution of Canada, and the Government of Canada, in the exercise of powers conferred upon it by the Constitution of Canada and by laws enacted by the Parliament of Canada, shall be guided by, among other considerations for the welfare and advantage of the people of Canada, the knowledge that a fundamental purpose underlying the federation of Canada is to ensure the preservation and the full development—

"The full development"; note those words. The article continues:

> —of the French language and the culture—

Note the word "culture."

> —based on it—

I think that the words "development" and "culture" are perhaps somewhat vague. I should like to see a certain consideration of that. I should like to see perhaps, if it is possible, "certaines précisions." I can't think of a suitable English equivalent, perhaps "more precise wording," which would be less likely perhaps to give rise to frivolous and vexatious litigation.

● (2120)

The proposal goes on:

> —and neither the Parliament nor the Government of Canada, in the exercise of their respective powers, shall act in a manner that will adversely affect the presentation and development of the French language and the culture based on it.

Again you have that word "development" and the word "culture."

In the French version the corresponding word for development is "l'épanouissement de la langue française et de la culture dont elle constitue l'assise."

I am not sure that "development" quite conveys as broad a meaning as "l'épanouissement." "L'épanouissement" suggests to my mind—and here another of my failings shows, my inadequate knowledge of French—"l'épanouissement" suggests to my mind "flowering" and "expansion." I don't know. Perhaps this is merely my ignorance again, and I look for light and explanation and reassurance.

If there is any vagueness in these terms, then it is possible, as has been suggested to me by a very experienced lawyer—a member of this house, who may, in fact, choose to say something about this himself later—it has been suggested to me that there is a possibility that almost any act of the Parliament of Canada might be challenged on the ground that it adversely affected, perhaps simply by omission, the development, the flowering of the French culture—a very broad term and not easily defined, I think—in Canada.

I am as anxious as anybody, I repeat again—and I don't want to be accused of being a mere Anglo-Saxon bigot—I am anxious as anybody to see the preservation and development of the French language and culture. But I want to be quite sure that we are not doing something which will mean an extraordinary burden upon the courts of the country in deciding a great many cases which really are not of very substantial importance but which could be a vehicle for the exhibition of the strong, not to say fanatical, views of certain small groups of people.

I merely mention this as a possible difficulty which might arise, and one which I think should be looked at carefully so that we know exactly what it is, or as nearly as possible exactly what it is, we are committing ourselves to.

The other parts of option III, the part on regional disparities and the part on federal-provincial agreements seem to me to be unobjectionable. The one on regional disparities is substantially the same, I think, as what appeared in the Victoria charter. It is a little differently worded. I am not prepared to say that the differences will make any real difference. I do not think they do, but they may.

The one on federal-provincial agreements is new and, I think, desirable. I think it is all to the good that there should be some specific provision for federal-provincial agreements, written agreements, if need be, and that these should be recognized. They exist now, they are important now, but recognition of them in the text of fundamental law can, I think, be useful and in no way, as the thing is drawn, limiting to the powers either of the provinces or of the dominion.

One final and very minor point. In the list, the schedule, which is explicitly declared to be "not final"—"not" spelled with three capital letters—"and subject to confirmation," there is something that I don't understand. Once again it may be simply that I have never had the advantage of a legal education. But you find that in the list of enactments which are to be considered part of the Constitution of Canada, five acts which, as far as I know, are completely spent. I don't know why we should include in a list of enactments constituting the Constitution of Canada five acts which are spent. Perhaps there is some technical legal reason for this. I don't know.

But here we have, for example, the British North America Act, 1907. Well, that's gone by the board long ago, as far as I know. Certainly it has no practical importance now, and I should have thought that we have long since got rid of the particular subsidies which were provided by the act of 1907. Perhaps we haven't. Perhaps they are still there, submerged beneath a mass of conditional grants and equalization grants, and so forth and so on.

The second one that is in, however, it seems to me, is clearly completely spent: the British North America Act of 1915, which provided for six senators from each of the four Western provinces.

That is there. It seems to me that that may also have become superseded, because we have since dealt with the constitution of the Senate and we can do anything we want to with it. That, however, is perhaps a doubtful point.

Then there is the British North America Act, 1943. Here I feel myself on much stronger ground because that act merely postponed the redistribution of seats in the House of Commons. The redistribution was postponed and several redistributions have since taken place. I don't know why that should still be in there.

The British North America Act, 1946 merely established a new formula for redistribution of seats in the House of

Commons, and we have since established yet another formula by the act of 1952, which also appears here. We have got rid of that and established more recently still another and even more complicated formula. So I can't really see why these last three acts at least, which are certainly, as far as I can see, completely spent, should be left in there as constituting part of the Constitution of Canada. The act of 1907 perhaps is still in effect. The act of 1915 perhaps is the sole basis for the presence of the six senators from each of the four Western provinces here. But these last three, I can't see any reason for putting in there at all. But I speak again subject to correction.

There, honourable senators, are the words of doubt, of hesitation, of disquiet, of question which I wanted to lay before the Senate, in the earnest hope that people much more competent than I will deal with these and whatever other questions suggest themselves to their minds—I know there are other substantial criticisms which have been made of the three options in the proposal of the Prime Minister—the hope that others in the Senate better qualified will take an active part in this debate, and that the debate itself will be of use in apprising the general public of exactly what is involved in these proposals.

That hope, as far as the general public is concerned, is somewhat muted by the fact that I think the Press Gallery is, as so often and too often, simply empty, and it is quite possible that none of these points will get any notice whatever in the press or by the general public on that account.

The fact that my observations, as such, will perish unwept, unhonoured and unsung is of no importance whatever; but the fact that some of these considerations, which in themselves, I think, have some point, may not reach a wider audience, is, I think, regrettable, and it causes me once again to reflect sadly and sourly on the neglect to which we are subjected in this chamber by the press of this country.

Senator Deschatelets: I hope Senator Forsey will not mind my asking him a question. It has to do with option number I. I understand that he would oppose unilateral patriation, at least in principle. I missed the reason why he would oppose unilateral patriation.

Senator Forsey: Would I uphold it?

Senator Deschatelets: I understood you to say that you would not like it if we were to proceed with unilateral patriation. I did not understand the reason why you would oppose it. Is there any constitutional objection to this, or simply the fact that you would not like something to be done without the consent of the provinces?

Senator Forsey: I didn't really intend to say that I opposed it. I was raising questions about it. I am not one of those who feel that the provincial rights are the be all and end all of our Constitution, and I am prepared to keep an open mind on this.

● (2130)

To be perfectly frank, I should say that my position would be that if, let's say, one small province jibbed, balked, and refused to go along, and the Prime Minister and the government then brought into the two houses an address asking for one or other of these options to be adopted, I should be, I think, prepared to go along.

But frankly, if the proposal is to go ahead in the teeth of strong opposition from the Province of Quebec, or the Province of Ontario, or, let's say, a couple of the Western or Atlantic provinces, I should feel more doubtful about it, particularly, perhaps, if the objection came from the Province of Quebec.

But I am cautious even about this, because, after all, I am not a citizen of Quebec; I am not French-speaking, and I should be inclined to defer there to the view of Quebec senators, and especially French-speaking Quebec senators. If the bulk of French-speaking senators from Quebec presented with a proposition like this said, "We think the people of Quebec are in favour of this. We do not think the provincial government's objections are based upon the popular will in Quebec," then I should not want to say that my French Canadian colleagues here from the province of Quebec were talking through their hats; I should not want to oppose the view which they would take. But I just feel doubtful about this. Something, of course, would depend on how strong the opposition of the Government of Quebec and the Legislature of Quebec might be to the proposal. It is possible that they would say, "Well, any one of these options, if you put in this *sine qua non* of unanimous consent of the provinces before anything happens, any one of these we can swallow. We perhaps don't like it very much, but if you have unanimous consent in there, then that gives us all the safeguards we want. We can oppose until kingdom come."

I cannot give a very definite and specific answer, for the reasons I have tried to sketch out.

I think, too, much would depend on the particular circumstances and the particular attitude of the people most directly concerned. Apparently, the Prime Minister, who certainly knows far more about Quebec than I shall ever know, is convinced that in certain circumstances it might be possible and proper to go ahead, even if the Government of the Province of Quebec, the Legislature of the Province of Quebec, objected. Well, I am not prepared to say that the Prime Minister is mistaken. I don't know. It is quite possible that most French Canadian senators from Quebec would say he is mistaken. I don't know, and I don't propose to assume the wisdom of Solomon in deciding between the contending parties to any such dispute. I merely raise the question and the difficulties.

I should add, as this gives me the opportunity, that one other thing I ought to have called attention to is the provision in the Victoria formula with regard to the Senate's part in these proceedings, which I think perhaps needs a careful look again. It is possible that the suspensive veto there proposed is for rather too short a time.

I am sorry to add that as a postscript, and perhaps contrary to the rules, in reply to the question which Senator Deschatelets asked me.

On motion of Senator Langlois, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, May 5, 1976

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

Prayers.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

MAY 5, 1976

Madam,

I have the honour to inform you that the Right Honourable Bora Laskin, P.C., Chief Justice of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber, today, the 5th day of May, at 5.45 p.m., for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly
de Lotbinière
Administrative Secretary to the
Governor General

The Honourable
The Speaker of the Senate,
Ottawa.

DOCUMENTS TABLED

Senator Perrault tabled:

Report, dated March 1976, of the Law Reform Commission of Canada entitled "Family Law", pursuant to section 18 of the Law Reform Commission Act, Chapter 23 (1st Supplement), R.S.C., 1970, together with explanatory notes.

Report on the Quinquennial Actuarial Examination of the Royal Canadian Mounted Police (Dependants) Pension Fund as at March 31, 1976, together with Treasury Board Order, dated April 15, 1976, pursuant to section 56(3) and 57(3) of the Royal Canadian Mounted Police Pension Continuation Act, Chapter R-10, R.S.C., 1970.

Report of the Department of Agriculture for the fiscal year ended March 31, 1975, pursuant to section 6 of the Department of Agriculture Act, Chapter A-10, R.S.C., 1970.

CITIZENSHIP BILL

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Connolly (Ottawa West) for second reading of Bill C-20, respecting citizenship.

Hon. Eugene A. Forsey: Honourable senators, I am sorry to rise again so soon after my marathon effort of last night, in which, incidentally, I realized, on reflection, that I committed two frightful legal errors. Indeed, I recognized them part way through what I was saying and tried to correct them, but the correction came a little late.

I am sorry to rise again, and more particularly on what is really very much a lawyers' bill. I have only a few general observations of my own to make on the bill, but there are a number of points in it on which I have taken the advice of a very competent lawyer, to which I should like to draw the attention of the house in order that other and better informed members, notably lawyers, may reflect upon them before the bill goes to committee and be ready to raise such questions as they see fit on the matters which I shall draw attention to.

I may add, the things I want to draw attention to in this regard are mainly matters which have arisen out of the deliberations of the Standing Joint Committee on Regulations and other Statutory Instruments, so that I should perhaps plead guilty to a special interest, though I think not a disqualifying interest, in this particular piece of legislation.

The first thing I want to say is that I am inclined to think that both Senator Connolly (Ottawa West) and Senator Yuzyk, in dealing with this bill, were tending to follow the verses, by whom I can't remember:

Be to her virtues very kind;

Be to her faults a little blind.

● (1410)

I think they were very kind to its virtues; it had many virtues, and I entirely agree with what they said in this respect. However, I think that a good deal of rather careful consideration will have to be given to this bill in committee, and it seems to me not impossible that we shall have to send it back to the House of Commons with proposed amendments. However, that may be a rash hope. The wish may be father to the thought.

Incidentally, I am inclined to agree with what Senator Yuzyk, if I heard him correctly, said about shortening the period during which a landed immigrant can qualify for citizenship from five years to three years. I do not have very strong views on this subject, but I am a little inclined

to think that perhaps, as he said, and for the reasons which he gave, this may be rather too short a period.

I am also very glad to see that certain foolish, and I think destructive, amendments which some people in the other place apparently had in mind—whether they actually moved them or not I don't know—do not appear in the bill that has come to us. There were some proposals that I heard which suggested that some people wanted to put into this act some things borrowed from the United States, which in my judgment have no business in it at all. I confess to a certain prejudice in this respect, on the whole. That something is done in the United States is no recommendation to me, but quite the reverse. I regard any such proposals with the greatest circumspection and the greatest suspicion, and it has to be proved to me with chapter and verse, with cogent argument, that anything borrowed from the United States is a good idea. I am willing to admit that they have some occasionally, just as with certain newspapers one can say that occasionally they may make statements which are true. One cannot take it as axiomatic that a statement in a particular newspaper is necessarily false. I am thinking of one particular newspaper, from which I have suffered in the course of my career, when it misreported me in the most flagrant manner. That is by the way.

There is one other point I wanted to make generally. I am glad to see that in spite of the probable intentions of some of the people who drafted this bill I can still say, with Sir John A. Macdonald, "A British subject I was born, a British subject I will die." I remain, under this bill, a subject of the Queen, and I cannot see that anything in it prevents me from describing myself perfectly legally as a British subject. I should be very sorry to find that anything did. At any rate, I am certainly a subject of Her Majesty the Queen, the Queen of Canada. She happens also to be Queen of a lot of other countries of the Commonwealth, which, as far as I am concerned, is excellent and an additional advantage.

I am a little uneasy about a slight variation between the two oaths, a matter of punctuation. I shall come to that perhaps shortly, if I have time. I want to show a little respect for the convenience of honourable senators, and for the fact that we ought to get out of here and get to committee work at a reasonable hour.

Having said that, I want to come to the main substance of what I wish to say about this bill. In the Standing Joint Committee on Regulations and other Statutory Instruments we have found the most extraordinary difficulty in winkling out of officials and departments information and statutory instruments, or what appear to us to be statutory instruments, which we are convinced are within our purview, and which we are convinced Parliament intends us to be able to see.

There are a number of difficulties here. One of them is, of course, that certain statutory instruments, admitted by all to be statutory instruments, we can get only by accident. They are not published anywhere in particular, unless there is a special determination by the Privy Council Office to do so. Every now and again our counsel, hunting for one thing, suddenly discovers an undoubted statutory instrument which otherwise we should never have heard of. This is one difficulty that besets us. Another difficulty is, of course—on a number of these we may be making formal reports, if we don't get matters cleared up—another difficulty which besets us is the extraordinary obscurity of the definition clause in section 2(1)(d) of the Statutory Instruments Act. I have yet to discover any lawyer who can give a clear explanation of this. Some of the official lawyers in the Privy Council Office have given us an interpretation but it is as obscure as the original definition, and also self-contradictory.

So this is a difficulty about which of course we can do nothing in dealing with legislation of this sort. We shall have to deal, if the necessity is ultimately proved, with the Statutory Instruments Act itself.

But another thing we find is that over and over again, something which appears to us in substance to be a regulation or statutory instrument is excluded from scrutiny because it does not contain certain magic words, such as the Governor in Council "may by order direct." If the magic words "by order" are left out, then the thing escapes from our grasp like the ectoplasm which the spiritualists talk about, that you can't get hold of in your hand.

Some of us, at least, very early on decided that henceforth, in looking at legislation, we should try to see that it did not contain any booby traps of this sort, and that it did not contain any drafting that would make it difficult or impossible for the committee to perform the duty which Parliament apparently intended to entrust to it.

I want to draw attention to a number of points which I think should be taken up in committee, to meet this situation. We find, for example, in clause 4 of the bill a provision that the minister may extend a period.

Clause 4, subclause (3) states:

> For the purposes of paragraph 3(1)(e), a person otherwise entitled under paragraph 5(1)(b) of the former Act to become a citizen immediately before the coming into force of this Act remains so entitled—

And so on.

> . . . in accordance with the regulations made under the former Act,
>
> (a) within two years after the occurrence of his birth; or
>
> (b) within such extended period as the Minister may authorize after this Act comes into force or has authorized before this Act comes into force.

Now, it appears to us that the authorization of an extension of a period would not be a statutory instrument—it appears to me, I should say, and to the counsel with whom I consulted—and it is not clear whether the minister's authorization is meant to be a general one or an independent authorization in an individual case. Apparently it is the latter because subclause 3 begins by speaking of "a person".

Now, here is a case where, if we wanted to be sure that anything done under this was a statutory instrument, it would be necessary to say, "as the minister may authorize" or we might say, "as the minister may, by statutory instrument, authorize." That is the English practice.

The reply of the officials would no doubt be that such a statutory instrument is not a statutory instrument within

the meaning of section 2(1)(d) of the Statutory Instruments Act.

Then you find in clause 5, subclause (2):

> The Minister shall grant citizenship (a) to any person who, not being a citizen, has been lawfully admitted to Canada for permanent residence and is the minor child of a citizen if an application for citizenship is made to the Minister by a person authorized by regulation to make the application—

It is not clear what that means, a person authorized by regulation. The general regulation-making clause, clause 26, is silent about the particular regulation required for the purpose of clause 5(2)(a). So it is not clear at all who is going to make this regulation.

I shan't go through all of these, but then you come to clause 5(4):

> In order to alleviate cases of special and unusual hardship or to reward services of an exceptional value to Canada, and notwithstanding any other provision of this Act, the Governor in Council may, in his discretion, direct the Minister to grant citizenship to any person and, where such a direction is made, the Minister shall forthwith grant citizenship to the person named in the direction.

● (1420)

Incidentally, I have no particular objection to the substance of this subclause, because I think it may meet the case of the loss of citizenship of Mrs. Beach, about whom there has been a certain amount of dust-up in the newspapers, who apparently lost her citizenship simply because she was given wrong information by an official of the Canadian High Commissioner's office in London. I am very much hoping that this trouble will be got over by means of this new clause, if it is passed into law. If it is not, I think it will be necessary for me to introduce a private member's bill in this house in order to right the wrong which has been done to Mrs. Beach by the misinformation which she was given by an official who ought to have known better.

However, as the thing stands, under the clause, the direction which is provided for, the direction of the Governor in Council, would not be a statutory instrument. The actual enabling phrase includes no magic formula: "may . . . direct . . . " "may by order," or whatever it is, "direct". Now, to ensure that the direction is a statutory instrument it would be necessary to say "the Governor in Council may by order direct."

Then, when you get to clause 9, it is quite clear that what is proposed there would be a statutory instrument, because the magic phrase "by order of the Governor in Council with respect thereto" appears. But it is one of these cases where we do not know whether we would ever see the statutory instrument or whether we would not. It is not a statutory instrument of the kind that would require to be published. And the question arises there also why the renunciation of citizenship, which is covered by the clause, should be at the discretion of the Governor in Council. The Governor in Council may by order direct that the person ceases to be a citizen as of the date stated by the Governor in Council. One would suppose that the grant of a citizenship or a renunciation would be void *ab initio*.

Then clause 12 is an interesting one:

> Where an application is made or a notice is given pursuant to this Act or a registration is made pursuant to section 7, it shall be made or given in such form and manner and at such place, and such evidence shall be provided and such fees shall be paid with respect thereto, as are prescribed by the Minister pursuant to this Act or by the regulations.

Well, if it is simply prescribed by regulations, then you have clause 26 which deals with that. But here you have a provision that the fees, for example, can be prescribed either by regulation or by the minister. " . . . such fees . . ." and so forth " . . . shall be paid . . . as are prescribed by the Minister . . . or by the regulations."

If you look at this carefully, you will see, I think, that it is the equivalent of the phraseology which we have encountered so often in instruments arising from and authorized by votes in the supply bills and to which the committee has objected very strenuously, where we get the phrase, "according to terms and conditions prescribed by the Governor in Council." It requires Sherlock Holmes and a Philadelphia lawyer in many instances to find out what these things mean and where they come from, and you are engaged in an infinite regression very often, because one vote refers back to previous votes and they refer back to previous votes and they to previous votes, and so on *ad infinitum*.

This particular clause I think needs a careful look, especially as it seems to overlap with clause 26, the general regulation-making power vested in the Governor in Council.

I find that clause 27 also raises some difficulties of this sort. Clause 27 simply says:

> The Minister may prescribe the forms of applications, certificates and other documents required for the purposes of this Act.

My legal adviser says to me, "Why should not the form of certificates and other documents be subject to parliamentary scrutiny?" They would be if they were in a schedule of the bill, as in the Elections Act, and the committee does scrutinize other departments' forms in large numbers; indeed, an immense load descends upon us.

Next, clause 17. This has a marginal note:

> Notice to person in respect of revocation.

Then comes:

> Nature of notice.

Then, in subclause (3), we have this:

> A decision of the Court made under subsection (1) is final and conclusive and, notwithstanding any other Act of Parliament, no appeal lies therefrom.

It is difficult for me to see why there should be no appeal. This seems to me to be a matter of extraordinary importance to the people concerned, and I cannot imagine why it has been put in there. I hope, when the officials come before us in the committee to which, presumably, the bill will be referred, they will explain why it is necessary to have this apparently rather harsh clause put in there.

Senator Greene: Would the honourable senator permit a question? In the light of the fact that the Bill of Rights is not specifically exempted, I gather it applies; so how can

the section removing appeals be applicable if the Bill of Rights applies to the bill?

Senator Forsey: I don't know. I simply think that the matter which I have raised, and on which the Honourable Senator Greene has commented, is one on which the committee might very well interrogate the minister or his officials when they appear before it.

I now come to clause 18. The marginal note is:

> Declaration by Governor in Council in matters of security.

The clause is as follows:

> 18. (1) Notwithstanding anything in this Act, a person shall not be granted citizenship under section 5 or subsection 10(1) or be issued a certificate of renunciation under section 8 if the Governor in Council declares that to do so would be prejudicial to the security of Canada or contrary to public order in Canada.

The declaration of the Governor in Council there would not be a statutory instrument, because there is no magic formula. It does not say, "the Governor in Council by order declares." Various difficulties might arise under that.

Clause 21 is a real beauty:

> Anything that is required to be done or that may be done by the Minister under this Act or the regulations may be done on his behalf without proof of the authenticity of the authorization by any person authorized by the Minister in writing to act on his behalf.

This worries me particularly, because we have found an apparently ineradicable tendency on the part of officials to resurrect, for the benefit of ministers, of the Governor in Council, and of officials, which is what it all often boils down to in the last analysis, the dispensing power which lost James II his throne. I gave some examples of this to the senior professor of constitutional law in this country, which caused him to describe the people responsible, I suppose including the government, as, "these latter day Stuarts" who are trying to get back into the hands of the excutive power the power to dispense with the laws which the Bill of Rights of 1689, following the glorious revolution of 1688, declared to be gone, unlawful, illegal.

This seems to be a very sweeping power indeed, and provides for an infinity of sub-delegation. It is one thing to give delegated power—the power to make subordinate legislation—to the Governor in Council, or even to a minister—then you have some idea of where you are; but when you provide for sub-delegation piled upon sub-delegation piled upon sub-delegation, you get to the point where the Groom of the Backstairs may be making a decision, and you have no recourse, because anything done under a clause like this is automatically to be taken as the action of the minister. It may be done, as the clause says:

> ... on his behalf without proof of the authenticity of the authorization by any person authorized by the Minister in writing to act on his behalf.

● (1430)

So the minister can give a blanket authorization to some official who can then go ahead and do practically anything he pleases. At least, that is the way it looks, and after our experience with some of these people, we want to make assurance doubly sure, if we can, by seeing that the legislation is so drafted that the officials cannot play ducks and drakes with it and interfere with the liberties of the subject. One of our jobs in the Committee on Statutory Instruments is to prevent subordinate legislation from trenching unduly on the liberties of the subject. But if the enabling legislation is too loosely drafted, then that job becomes impossible. We simply cannot get at the thing. It is abstracted from our scrutiny and we find ourselves baffled and frustrated.

Now, on clause 26, the general regulations clause—and on all of these, I may add, I hope to be able if I live, as my grandmother used to say, to appear in the committee and ask suitable questions where I shall go into rather more detail—in clause 26 you find, for example, in paragraphs (a) and (b) that the Governor in Council may make regulations:

> (a) prescribing the manner in which and the place at which applications and registrations are to be made and notices are to be given—

And so forth, and fixing fees. But these may be a dead letter if the minister deals with the same matter under clause 12, or if some delegate of the minister deals with the same matter under clause 12. It is very curious, and, to my mind, very careless drafting, to confer a power both upon the Governor in Council and upon the minister, an identical power to do precisely the same thing. I don't know what the issue of that is, but it does not seem to me to be good drafting.

Senator Connolly: I am sorry, senator, I lost the trend of your remarks. Would you give us the subsection to which you are referring now?

Senator Forsey: Clause 26(a) and (b) and comparing those with clause 12. Clause 12 says that the minister may prescribe fees and so forth; clause 26 says that the Governor in Council may do so, or at least so it appears to me, and it appears to me that there is an overlapping there somewhere, and I think the matter should be cleared up at some stage.

Then in clause 26, paragraph (h), we have a word of which the officials here are extremely fond and which does not appear in the British statutes at all. That is the word "respecting." The Governor in Council may make regulations "respecting the taking of the oath of citizenship". That has generally been held by those in authority over us, the officials, and I suppose, the law officers of the Crown, to confer an extraordinarily wide power. So that if you have something that says, "The Governor in Council may make regulations exempting any category or class of persons from such and such," you may suddenly be confronted with a document which says, "Joseph Leblanc"—and that was the name of one particular person actually who was exempted under something of this sort— "is hereby exempt." And when we remonstrated and said that Joseph Leblanc was not a category or class of persons, he was an individual, the answer was, "Oh, it amounts to the same thing, don't worry about it, we have the power to dispense anyway. If we can pass a general regulation, we can pass a particular one." So because "respecting" this, "respecting" that is what they rely on, here we have "respecting the taking of the oath of citizenship." It seems to me that it

would be wiser, at least, to say the Governor in Council may make regulations "prescribing the manner of the taking of the oath of citizenship." Surely we are not going to give the Governor in Council power to vary the oath of citizenship? Here is a statutory oath, but if you may make regulations respecting the taking of the oath of citizenship I should be prepared to bet heavily, if I were not a non-betting, continuing Methodist, that we may get some jiggery-pokery at some future date by somebody or other twiddling and fiddling and changing the oath of citizenship. Now, whether that could be done, I don't know, but here appears to be a word which gives very wide powers, which is generally taken to give very wide powers, and it seems to me that we should be as careful as possible not to give these powers beyond what we really intend.

Well, I could go on at some length about the delegation and sub-delegation. You will find that there is in here, for example, under paragraph (d) of the same clause regulations:

> providing for various criteria that may be applied to determine whether or not a person
>
> (i) has an adequate knowledge of one of the official languages of Canada,
>
> (ii) has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship, or
>
> (iii) has a substantial connection with Canada;

That is pretty broad and I can imagine a test of the adequate knowledge of Canada which would rule out an awful lot of people. I once sat briefly and faute de mieux, because other people better qualified were not available, on a civil service board examining candidates for the post of assistant archivist. One candidate, the best one, I might add, when I said to her: "Now, can you name any of the Fathers of Confederation?", after a prolonged contemplation of the floor, where all the candidates seemed to feel that some oracle apparently resided, said "Macdonald" and I said, "Yes". This was a lady, by the way, who kept boasting all the time about being a historian. Every now and again she would say with a superior wave of the hand: "Oh, as a historian, of course; as a historian". So I said: "Yes; can you name another one?" Well, after further contemplation of the floor, consultation with the oracle, she said "Brown". I said: "Yes; can you name any others?" A long pause, then she looked rather blank and I said: "Well, perhaps that is rather a difficult question to ask you". This lady, I might add, had been teaching grade 13 Canadian history a couple of years before. I said, "That's rather, perhaps, a hard question to ask you just out of the blue like that. Let me be a little more precise: Can you name any Father of Confederation from Nova Scotia?" After prolonged contemplation of the floor she answered in a word that made my spine tingle in my capacity as being partly from Nova Scotia, "Tilley" with an upward inflection of the voice. I said, "Can you name any Father of Confederation from the Province of Quebec or, rather, what was then called Canada East?" She thought for a while and she said, "Lafontaine" and I said, "Thank you, Mrs. so and so; those are all the questions I want to ask." We had another one, this was a university graduate, who was asked if she could say anything about the Pacific Scandal of 1873. She consulted the floor also for a long time and then said, "Well, it had something to do with relations between government and business." Whoever had asked the question said, "Yes; now could you be a little more precise than that?" I think she then was able to say that it had something to do with a railway and we said, "Yes, that is true; now could you tell us who was Prime Minister at the time?" After very prolonged contemplation of the floor, she said, "Mackenzie King." One year before Mackenzie King was born. Well, now, those people who, I think, were native-born Canadians, of course, would not have to pass any test that might be set down for adequate knowledge of Canada; but if they had been immigrants, what would have happened to them, what kind of test would have been set? The test is entirely at the discretion of the Governor in Council and probably the discretion of some official to whom it is handed down step after step—and heaven alone knows what might go in if the authors of those two pamphlets, to which I drew attention not long ago, the outrages published by the late unlamented Information Canada, were doing the job. Imagination boggles at the kind of test they might devise. They would have all sorts of prenatal activities in there, beside which Mr. Mackenzie King's feat in getting involved in a scandal the year before he was born would pale into insignificance.

● (1440)

This is a very wide power which is given here. The same is true about knowledge of the languages. How do you decide what kind of test do you set down for adequate knowledge of one of the official languages? I don't know. I am perfectly certain that it would be possible for any ingenious linguist to set a test which would show that I had a thoroughly inadequate knowledge of the French language; and I have even had learned professors, one learned professor at a Canadian university, once tell me I didn't understand the English language. Well, I don't know. At that point I must confess I was a little bit baffled.

These things give very wide powers and powers which may be delegated over and over again.

Paragraph (j) is another good one. Regulations:

> providing for the surrender and retention of certificates of citizenship—

And so forth.

> —if there is reason to believe that the holder thereof may not be entitled thereto or has violated any of the provisions of this Act;

Well, now, whose reason to believe? Some unknown person's reason to believe! These surely are matters of law and should be decided not by some official but by the courts.

There are a number of other things. There is something in here about the provision for the provinces to bar certain people from holding land. That is, I think, clause 33. The question arises, if succession to estates and land is to be barred to foreigners, where will those estates go?

Perhaps there is a perfectly good answer to this, but it doesn't appear to me to be obvious from anything in here. There doesn't seem to be any provision for it. Perhaps the matter will fall simply within the jurisdiction of the province which is dealing with the thing. I don't know.

In regard to the oath of allegiance and the oath of citizenship, the oath of citizenship has a little extra added to it. I think it is reasonable enough, probably, although I don't quite see the necessity for it. It adds the words:

> and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

It is curious that in the oath of allegiance, in clause 39, you find:

> bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, her heirs and successors according to law.

No comma after "successors." But if you look at the other one, there is a change in the capitalization of letters. "Her Heirs and Successors" all have capital letters, where they don't have in the first one; and then after "Successors" there is a comma: "Her Heirs and Successors,".

I am advised that that might make some legal difference, the presence or the absence of that comma. I don't know. But I think these are things that ought to be gone into.

There are signs here of drafting which might lead to difficulties and confusion. There are signs of omissions. There are signs of drafting which might lead to serious difficulties for the Committee on Regulations and other Statutory Instruments in its attempt to carry out its duties.

I am afraid I have hurried very rapidly over those points. My main intention was simply to mention them so that people could take notice of them and others besides myself might be ready, perhaps, to ask questions about them in the committee if they felt that any questions were justified, if they felt there was any lack of clarity or any possibility of undue trenching upon the liberties of the subject because of obscure or—I am almost tempted to say ill intentioned—drafting which would give inordinate powers to officials under the legislation as it stands.

I have gone rather fast over it because I do not want to take up the time of honourable senators unnecessarily. But I thought, on the other hand, it would not be fair simply to go into committee with a series of these questions and difficulties and not to have given colleagues warning of this and given them an opportunity, perhaps, to come to me beforehand and say, "Don't ask that question because it's an entirely silly question or ill advised," or perhaps to come and say, "Don't you ask that question. It is a question that is worth asking, but I can ask it much better than you can, or Senator X can ask it much better than you can." I thought it was advisable therefore to give some notice to the Senate that, other things being equal, I hope to be in the committee and raise some at least of these points and try to get them clarified, and, where necessary, get the wording improved.

Senator Goldenberg: Would Senator Forsey permit a question? I wonder if Senator Forsey expressed any opinion on the wording of clause 34:

> A person who is not a Canadian citizen is triable at law in the same manner as if he were a Canadian citizen.

Senator Forsey: I have no observation to utter on that whatsoever. "Pure ignorance, madam, pure ignorance," said Johnson when caught out in a bad definition. I can say pure ignorance, sir, pure ignorance on my part.

Senator Goldenberg: I wondered if the honourable senator approves the use of the word "triable," which I had never heard in my rather long career at the Bar.

[Senator Forsey.]

Senator Forsey: It was a new one to me, but I thought to myself, "Oh, this must be one of those 'expressions consacrées,' special terms in law with which I am not familiar." I don't recall ever seeing the word before, but I didn't venture to offer any observation on that, in spite of my fussiness, ordinarily, about the English language. I thought, "This is something technical. It's like something out of nuclear physics, and I know nothing about it".

Senator Goldenberg: It is not out of law.

Hon. J. J. Greene: Honourable senators, I wish to follow Senator Forsey's example in drawing a point to the attention of the committee to which I understand the bill will be referred. I am not a member of that committee and, therefore, will not be able to participate in the discussion.

Hon. Senators: Why not?

Senator Langlois: You can participate in the discussion.

Senator Choquette: But you cannot vote.

Senator Greene: In any event, I would hope that the committee would seriously consider the point with respect to land ownership that Senator Connolly described so well in his speech. As I understood Senator Connolly, this measure appears to ascribe to the law a rather shocking decision of the Supreme Court of Canada, which held that a province may pass laws proscribing a Canadian citizen's holding land in that particular province except under conditions allowed by the province.

I would think it is surely the function of the federal aspect of our body politic to enhance the totality of Canadian citizenship, to unify the country, by giving equal rights in as great a degree as possible within our Constitution to Canadian citizens all over Canada. While I think we might agree that it is perfectly within the rights of a province to proscribe the rights of foreigners to hold land within that province, surely it should be the right of any Canadian citizen to hold land anywhere in Canada.

Hon. Senators: Hear, hear.

Senator Greene: I hope the committee will seriously consider this aspect of the bill, and see whether it has not really negated the federal intent of giving the widest possible right to Canadian citizenship in the way in which it is drawn, and without impinging upon what have grown to be almost sacred powers of the provinces within the Constitution.

● (1450)

I sincerely hope the committee will look at that aspect of the bill to see whether it does not almost invite the provinces to limit the rights of Canadian citizens to hold land except in the province in which they reside. If so, it will be a very serious limitation of Canadian citizenship. To my mind, the bill perhaps goes too far in attempting to implement what appears to me to be a regrettable judgment of the Supreme Court of Canada. Let us not ennoble it in legislation if, in fact, it is a restrictive rather than a beneficial judgment.

Hon. John M. Macdonald: Honourable senators, there are a few comments I should like to make on this bill before it receives second reading. I agree that the measure does not make too many substantial changes in the requirements for the granting of citizenship. It does, how-

ever, make a few major ones. It proposes, for example, that citizenship be a right, if a person fulfills certain qualifications, and not, as is the case under the present act, something which is at the discretion of the minister.

I think we can agree, for the most part, that the proposed changes are acceptable. Certainly, the dropping changes are acceptable. Certainly, the dropping of the age limit to 18 to coincide with the voting age is a good step. I think, too, that it is well to do away with the qualification that a person must prove good character. After all, it is difficult to define what is meant by "good character," and a person, I would expect, would have to be of very poor character if he could not get a couple of people to testify, either orally or by letter, to the fact that he is of good character.

While it is well to have the two last-mentioned qualifications dropped, I think we are faced with a more difficult problem when it comes to the abridging of the residency requirement from five years to three years. Without doubt, there are a great many landed immigrants who, apart from the residency requirement, are qualified to become Canadian citizens long before the expiry of five years. With that in mind, I think that in Bill C-20 the government has endeavoured to strike a fair balance. It is trying to avoid the imposition of a hardship on those landed immigrants who are qualified to become Canadian citizens in less than five years without downgrading the whole concept of citizenship. I do not think anything should be done which would in any way cheapen or downgrade the granting of citizenship. Yet, I am sure we have all known people who are capable of becoming productive Canadian citizens after only a few months in the country.

I suppose all honourable senators have known people who applied for citizenship. I must say, I have been impressed with the regard which new Canadians have for citizenship. They cherish the idea. In fact, to some it is almost a mystical experience. When one comes up against it, it makes one realize more than ever the value of Canadian citizenship. I do not know whether a three-year residency requirement is too long or not long enough, and I expect that only time will tell.

I do not like the idea of giving certain classes of immigrants an advantage over others, as is proposed in the bill. To cite one example, the bill proposes that students lawfully in Canada who, on returning to their country of origin, decide to return to Canada to live, be credited with one-half of a day of residence for every day during which they were students here, which would reduce the residency requirement for that class of immigrant. I do not think that is fair to those people who leave their homelands with the determination to become Canadian citizens, regardless of what they find in Canada. Those people are required to wait the full period before being eligible for citizenship, while it is proposed that these other people—those who have spent time in Canada as students, or have been legally in Canada in one capacity or another—if they wish then to become Canadian citizens, should have a much shorter wait. I think the proposed act gives that class of immigrant an unfair advantage.

The bill also proposes that a Canadian citizen who loses his citizenship by virtue of becoming a citizen of another country, should he decide to resume his Canadian citizenship status, has to reside in Canada for only one year before qualifying for resumption of citizenship.

Another point I feel the committee should consider is the qualification that a person have an adequate knowledge of one of our official languages. In other words, an applicant must have an adequate knowledge of either the French language or the English language. However, nowhere do I see a definition of "adequate knowledge." Personally, I think that knowledge of either of our official languages should not be a qualification. If a person can come to Canada and remain here for three or five years, or however long he remains, and is unable to acquire facility in one of our official languages but is able to get along and earn a living, then the fact that he cannot pass a language test should not be a bar to his becoming a Canadian citizen.

I am sure that many of us know people who came to Canada years ago and who have been able to acquire little or no knowledge of either of our official languages. Yet they got along, and got along well. Their families can speak English or French, and they are great citizens. Personally, I should like to see the qualification of having an adequate knowledge of either of the official languages done away with. If an applicant for Canadian citizenship is qualified in every way but the language qualification, then give him his citizenship, and I am sure he will turn out to be a great Canadian.

Senator Greene: I wonder if the honourable senator would permit a question?

Senator Macdonald: Certainly.

Senator Greene: Would the honourable senator support an amendment that "Gaelic" be substituted for "either of the official languages."

Senator Macdonald: Well, they do say that Gaelic is the language of the Garden. Personally, I have never been able to speak it. It is a difficult language to learn. While I suppose there are others in the political life of Canada who speak Gaelic, the only one I know is the Honourable Allan MacEachen, Secretary of State for External Affairs. He is well versed in the language, but I do not believe he has ever had occasion to use it in his dealings with foreign countries.

I believe there is consideration in the present act for people over 40 years of age, to the effect that they do not have to have the same knowledge of one of the official languages as a person who is under that age. I think that is proper. It takes into consideration the fact that an older person cannot pick up a new language as easily as younger people.

I should like to see some consideration given to persons who have served in the armed forces of Canada. Such consideration is provided in the present act, but is deleted in the proposed legislation. Yet there may be good people, serving in the branches of our armed forces, either in Canada or abroad, and I think special treatment should be accorded them should they decide to apply for Canadian citizenship. The time they have served in our armed forces should be taken into consideration for purposes of the residency requirement.

Senator McDonald: Hear, hear.

Senator Macdonald: I should like to retain section 33 of the present act, which provides:

● (1500)

> The Minister shall take such measures as to him may appear fitting to provide facilities to enable applicants for certificates of citizenship to receive instruction in the responsibilities and privileges of Canadian citizenship.

I believe that is a very good idea, and I do not understand why it has been dropped in this bill.

There is one other minor point that I should like to bring to the attention of the committee. If honourable senators look at the oath of allegiance in the present act, they will see that it concludes with the words "So help me God." In the oath of citizenship in the bill those words are omitted. I do not know if they have been dropped deliberately, and I do not know if it has any effect; I am just curious as to why that is so.

Honourable senators, I am pleased to support the bill.

Hon. John J. Connolly: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honorable Senator Connolly speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Connolly: Honourable senators, we have had quite a debate on this measure, a debate which I think has been positive and fruitful. I was very pleased last night to hear Senator Yuzyk speak. We in this house should be conscious of the fact that in the field of citizenship Senator Yuzyk is an expert, because he is an expert as an historian and as a socialogist. He worked for many years in these fields long before he came to the Senate. Fortunately for the country, he has continued these activities and has done much, not only for his own people and people of similar descent to his own, the Ukrainians, but people from the countries of Eastern Europe, and indeed on behalf of many other ethnic strains in our society.

Hon. Senators: Hear, hear.

Senator Connolly: For that reason, I was very glad to hear him talk about the importance to this country of citizenship, and of doing all that we as a federal parliament can do to promote the highest of aims and objectives in that area.

Senator Choquette at one stage mentioned that very few native-born Canadians bother to apply for citizenship certificates. This is perhaps something that most of us can accuse ourselves of not doing. It is a simple thing to do; it is a very easy certificate for the native-born Canadian to get, and certainly all members of the Parliament of Canada should have a certificate of Canadian citizenship.

Senator Burchill asked for some figures indicating the number of United States' citizens who have migrated to Canada in recent years. I do not want to burden the Senate this afternoon with a long list of figures. I have some statistics which indicate the number of American citizens who have come to Canada in recent years. The figures on this table run from a low of 9,000 people to something in the order of 26,000 in more recent years. Perhaps I could have authority to place this column of figures on the record at this part of my reply, if that is satisfactory.

[Senator McDonald.]

Hon. Senators: Agreed.

(*The table follows:*)

IMMIGRATION FROM U.S.A. TO CANADA

1974	26,541
1973	25,242
1972	22,618
1971	24,366
1970	24,424
1969	22,785
1968	20,422
1967	19,038
1966	17,514
1965	15,143
1964	12,565
1963	11,736
1962	11,643
1961	11,516
1960	11,247
1959	11,338
1958	10,846
1957	11,008
1956	9,777

Senator Connolly: Senator Yuzyk mentioned that there are 200,000 illegal residents of Canada; in other words, approximately 200,000 people who are not landed immigrants. That is true. From some of the remarks made by Senator Forsey, Senator Macdonald and, perhaps, Senator Greene, there might be some concern that these people may be able to qualify for the 50 per cent of the time they spent here illegally when they do become landed immigrants. My reading of the bill is that that 50 per cent rule, which is introduced in this bill for the first time, does not apply to people who are here illegally. As in the example I used before, it would apply to a group such as students who are here legally for a while, who return to their own country and then decide, as Senator Macdonald described it, to come back to Canada and become landed immigrants. Their three-year waiting period could be shortened, under the provisions of this measure, by 50 per cent of the time they previously spent in the country. However, I think the committee might well look into the wisdom of that provision.

The question of the three-year waiting period has been raised by Senator Yuzyk, Senator Forsey and Senator Macdonald. We should, I think, remind ourselves that it is not mandatory on the part of any landed immigrant to apply for citizenship after three years. By the same token, a person who has been a landed immigrant for three years does not automatically become a citizen. This is a minimum period, and at the end of that minimum period it is open to a landed immigrant to apply to a judge of the Citizenship Court, as provided in the bill, and to meet the tests prescribed in clause 5(1). In other words, a person who applies has to be 18 years of age or over; has to be lawfully admitted to Canada and be here for three years; must have an adequate knowledge of one of the official languages and an adequate knowledge of Canada, and not

be under a deportation order. All these tests have to be met.

It is conceivable, of course, as I understand has happened on a number of occasions, that applicants for citizenship certificates before these citizenship judges are sometimes refused. They can apply again. There is no specified period within which they cannot re-apply. However, I think they would be very foolish to apply before they felt they could pass the tests. I think there always has to be the safety valve of the citizenship judge to determine whether or not these people are qualified to become Canadian citizens and to have the certificate.

Senator Macdonald expressed concern with respect to knowledge of the official languages and knowledge of Canada. One must remember in this that there is a discretion which must be vested in the citizenship court judge. There is a discretion vested in the minister, whereby he can relieve elderly people or others from the requirement to have an adequate knowledge of one of the official languages, either English or French.

● (1510)

If what Senator Macdonald said is correct, that in the present act there is a provision that people over 40 do not have to comply with the strict letter of the law in respect of knowledge of official languages, then I point out that there is relief provided, and a discretion given to the minister under clause 5(3) of the bill, which is intended to operate in precisely the same way as that former section operated. In other words, the minister can relieve elderly people—for example, those who come from countries where there is no similarity between the language they speak and the English and French languages which are spoken here.

Senator Macdonald: How would you define "elderly?"

Senator Connolly: I think that is a matter of discretion too. I would have no difficulty applying it to myself; I would have difficulty applying it to my friend.

Senator Macdonald: Thank you.

Senator Connolly: I would probably have difficulty applying it to anyone else in this house, but I think that is where the discretion of the minister arises. The point is a valid one. It is validly taken, and it is one that should be examined in committee.

Senator Macdonald thought it was a little too much to allow a Canadian, who had renounced Canadian citizenship, to be able to resume his or her status as a Canadian citizen after one year's residence. I suppose that is a matter of judgment. But I should think that if a person went to another country and became a citizen and then wanted to return to Canada, the fact of one year's residence here would be a fair indication that that returning person really wanted to resume Canadian citizenship. Again, as I have said, this is a matter of judgment. It is a matter that perhaps the honourable senator would raise in committee.

Honourable senators, I am afraid that the detail of the points raised by Senator Forsey might be a little too complicated for me to deal with at this moment. It may take me a moment to find my notes in that connection. Perhaps I could deal with Senator Greene's point, and then find my notes with respect to what Senator Forsey said. I apologize for my bad housekeeping.

I would say to Senator Greene that what the Supreme Court of Canada did was simply confirm the power of the province to restrict ownership of land within the provincial boundaries. That is a power, of course, that the court has found the province to possess by virtue of the provisions of the British North America Act. Therefore, it is not this act that would alter the situation in any way. There would have to be a change in the basic power of the province, and that power is to be found in the appropriate sections of the British North America Act. What this bill proposes to do is take the federal jurisdiction in respect of aliens, which is clearly a federal jurisdiction under section 91 of the British North America Act, and confer that authority upon the province, in respect of ownership of land. In other words, the federal authority by this bill, as I understand it, is delegating to the province the right to legislate with respect to aliens who might become owners of land. In a sense, this may be a relieving provision. I understand that the legislation in the province of Prince Edward Island—I may be mistaken about this; I am not sure, but I think I am right—forbids, except under certain conditions, anyone not a resident of the province to own land. It may be hoped, as a result of the delegation provided here, that the province will amend that legislation and apply it not to non-residents but to aliens, to foreigners.

That may be a pious hope, or, perhaps, a facile explanation on my part but that, as I understand it, is the situation in respect of that point. It was a very valid point—that raised by Senator Greene.

Now, if I could only find my notes with regard to what Senator Forsey said—Senator Walker will be glad to know I have been successful.

Senator Walker: I am surprised to know you have found anything, but go ahead.

Senator Connolly: Frankly, so am I.

First of all, Senator Forsey raised the question of the position of the British subject, and said that he still felt like Sir John A. Macdonald—a British subject he was born, a British subject he will die. I do not intend to pronounce on that proposition, but I do know that what is conferred by this act upon people who qualify is Canadian citizenship. It may also confer the status of a subject of the Queen. Whether that is the status of a British subject or not, I am not qualified to say. Certainly it does not confer British citizenship, because Britain also has a citizenship act somewhat along the lines of ours, I assume, and it applies to people who can qualify under it.

A great many points were raised by Senator Forsey, arising out of the work he has done as joint chairman of the Standing Joint Committee on Regulations and other Statutory Instruments. These points are valid points. One is always concerned—perhaps lawyers especially—with the power to make regulations which is conferred by federal legislation from time to time, and some of the discretions that are to be exercised by orders in council, by ministers and by officials. The value of the work done by the Standing Joint Committee on Regulations and other Statutory Instruments emerged this afternoon, as the

result of Senator Forsey's speech, in a very useful context. I hope that the points he made, with respect to some of the discretions given, particularly to the administrative officers of the Crown, will be looked at very carefully. Senator Forsey complained about the language which has created problems for the committee investigating regulations and other statutory instruments, and I hope that some of this language will be cleared up in a way that this act will be defensible when it is returned to this chamber.

In the course of his remarks, Senator Forsey mentioned the matter of the finality of the appeal conferred by clause 17(3) of the bill. As I recall that clause, it refers to an appeal from a decision of the minister to the Federal Court with respect to the revocation of citizenship. I take it that Senator Forsey's point is that there should be an appeal to courts higher than the one provided in clause 17(3), because the word "Court" in that clause means the Trial Division of the Federal Court. Whether it should go on to the Federal Court of Appeal, and then to the Supreme Court of Canada, is perhaps a point for debate which could be raised in the committee.

● (1520)

With respect to clause 21 Senator Forsey referred to the "latter day Stuarts." I would point out that that particular clause of the bill refers only to proof of the authenticity of the document issued by the minister to confer authority on somebody. It does not restrict, nor does it limit or expand, the authority given the minister, which I think must be found by definition within the four corners of the legislation. So it is simply the authenticity of the document by which the minister confers the authority which is treated within that clause.

I do not pretend to be giving an exhaustive or learned treatment of the clauses referred to by Senator Forsey. I think those clauses should be dealt with *seriatim* in committee.

Senator Greene raised a question under clause 33 concerning the situation in which an alien, although forbidden to own land in a given province, does own land, and then upon his death, by his will, leaves that property to members of his family. If those members of his family also happen to be aliens, then a problem is created. In my opinion, however, it is a problem not for the federal authority but for the provincial authority to deal with. If it is a problem, I think it is up to the province enacting this kind of restrictive legislation to provide the remedy.

Honourable senators, I thank all those who have participated in this debate which, in my opinion, has been both healthy and helpful.

As to the committee to which this bill should be referred, the Standing Senate Committee on Legal and Constitutional Affairs comes first to mind. However, as that committee is already overburdened with work, it has occurred to me that the bill should be referred to the Standing Senate Committee on Foreign Affairs. That committee does deal with immigration matters which, although not exactly in line with this bill, are somewhat related to the matter of citizenship. At least, citizenship is reasonably closely allied to immigration. In the meantime, if any senators have views on this particular point, I am certainly open to further thoughts on the matter.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Connolly moved that the bill be referred to the Standing Senate Committee on Foreign Affairs.

Motion agreed to.

The Senate adjourned during pleasure.

At 5.45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Right Honourable Bora Laskin, P.C., Chief Justice of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Right Honourable the Deputy of His Excellency the Governor General was pleased to give Royal Assent to the following bills:

An Act to provide for compensation for former prisoners of war and their dependants and to amend certain other statutes in consequence thereof.

An Act respecting the use of national safety marks in relation to motor vehicle tires and to provide for safety standards for certain motor vehicle tires imported into or exported from Canada or sent or conveyed from one province to another.

An Act to amend the Quarantine Act.

The House of Commons withdrew.

The Right Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, May 6, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of Eldorado Nuclear Limited and its subsidiary, Eldorado Aviation Limited, including their accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, May 11, 1976, at 8 o'clock in the evening.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, although the question has been put and the motion has been agreed to, I should like to make the usual statement as to the work in store for us next week.

Senator Flynn: That's a new twist.

An Hon. Senator: With leave!

Senator Langlois: In moving the adjournment of the Senate until Tuesday next at 8 o'clock in the evening, I have taken into consideration that although we expected to receive two bills for introduction in the Senate some time today, they have not arrived as yet, and the bills that we expected to receive from the Commons earlier this week have not come to us. However, in the following week it will probably be necessary for us to sit on Monday evening.

This afternoon Senator Stanbury will move second reading of Bill C-89, to amend the Anti-Inflation Act, and the debate on second reading will resume on Tuesday. Also on Tuesday, two Senate bills will be introduced and placed on the Order Paper for second reading on Thursday next. In addition, Bill C-81 should pass the House of Commons next week and be sent here.

I understand that a number of senators wish to speak on Senator Bonnell's inquiry calling the attention of the Senate to the British North America Act as it pertains to transportation, on Senator Forsey's inquiry on the Constitution of Canada, and on Senator Croll's inquiry on the state of the working poor in Canada.

The committee schedule next week is heavy. On Monday the Standing Committee on Agriculture will meet at 2 p.m. to receive the annual presentation of the Canadian Federation of Agriculture. I have been requested by the chairman of that committee to invite all senators, whether members or non-members of that committee, to attend this important meeting.

The Agriculture Committee will meet again at 9.30 a.m. on Tuesday to consider DREE policies and Farm Credit Corporation policies. The Joint Committee on Regulations and other Statutory Instruments will meet at 9.30 a.m. At 2.30 p.m. there will be a meeting of the Legal and Constitutional Affairs Committee on the subject matter of Bill C-83, and at 3 p.m. the Foreign Affairs Committee will continue its study of Canada-United States relations. The Special Joint Committee on the National Capital Region has been called for 8 p.m.

On Wednesday, at 9.30 a.m. and at 2.30 p.m., the Standing Senate Committee on Banking, Trade and Commerce will hear witnesses on Bill C-58. The Science Policy Committee will meet when the Senate rises.

At 9.30 a.m. on Thursday, the Foreign Affairs Committee will continue with its study of Canada-United States relations, and the Banking, Trade and Commerce committee will meet at the same hour to hear more witnesses on Bill C-58. The Special Committee on the Clerestory of the Senate is to meet at 10 a.m., and the Internal Economy, Budgets and Administration Committee will meet at 11 a.m. The Special Joint Committee on the National Capital Region and the Joint Committee on Regulations and other Statutory Instruments will meet at 3.30 p.m.

WEDNESDAY SITTINGS—HOUR OF ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate, I move that from now and until the Senate adjourns for the summer recess, the Senate shall adjourn at three thirty o'clock in the afternoon on Wednesdays.

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

Senator Flynn: It should be put on the record that the purpose of this motion is to allow the Special Committee of the Senate on Science Policy to meet at that time on Wednesdays.

Senator Langlois: It also relates to the Standing Senate Committee on Banking, Trade and Commerce.

Senator Flynn: That is correct, but I understand that the Banking, Trade and Commerce Committee will be sitting while the Senate is sitting.

Senator Langlois: I intend to make a motion to that effect.

Senator Flynn: But I believe that the purpose of this motion is to enable the Special Committee of the Senate on Science Policy to sit at 3.30 on Wednesdays.

Senator Langlois: Yes. However, when we instituted our system of coordinating meetings of committees it was understood that we would abide by the practice to adjourn at 3.30 p.m. on Wednesdays, and it was suggested, with the concurrence of the Leader of the Opposition, that this motion be made to so adjourn at that time on Wednesdays until the summer recess.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting on Wednesday next, 12th May, 1976, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

ANTI-INFLATION BILL

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Richard J. Stanbury moved second reading of Bill C-89, to amend the Anti-Inflation Act.

He said: Honourable senators, in rising to support the second reading of Bill C-89, to amend the Anti-Inflation Act, I should like to point out that when the anti-inflation program was introduced in October 1975, the government emphasized the importance of close consultation with all groups in the economy affected by the guidelines, and the importance of being prepared to adapt the program from time to time as the need for changes became apparent. The legislative changes being made in this bill, and the related alterations in the guidelines, illustrate the government's willingness to respond to constructive representations to increase the fairness and effectiveness of the anti-inflation program.

● (1410)

The most significant change involves a series of amendments related to the issue of the appeal system. The Anti-Inflation Board retains initial responsibility for considering whether any actual or proposed increase in prices, profits, compensation or dividends subject to mandatory control is permissible under the guidelines. Under the amendments, however, in the event that the board provides notification of its opinion that an increase exceeds the guidelines, any person or group directly affected by the decision which chose to dispute it would have the right to so notify the board. The board would be required to refer the issue in question to the Administrator, and any order issued by the Administrator could subsequently be appealed to the Anti-Inflation Appeal Tribunal. Under this proposed procedure, a disputed opinion of the board could be referred to the Administrator for consideration without the necessity of an actual increase in prices or incomes contrary to a board opinion.

The right of appeal will also be significantly broadened. At present, only the party or parties specifically named in an order of the Administrator have the right to launch an appeal. Under these revisions, those directly affected by the order but not named in it would be granted similar rights of appeal. This change clearly applies to compensation cases, where there are two parties to the issue. Bill C-89 provides that an employee organization or designated employee may dispute opinions of the Anti-Inflation Board on compensation directly affecting their interests, and require such cases to be referred to the Administrator. An employee organization or designated employee would also have the right to appeal an order of the Administrator to the Anti-Inflation Appeal Tribunal and beyond, as the law presently allows. A similar right would be extended to employer organizations directly affected by guideline decisions.

A third issue relates to increases in compensation in excess of the guidelines. It was always the government's intention that in the first instance the parties, and ultimately the Administrator and the Appeal Tribunal, should be entitled to formulate their own judgment as to whether any increase in compensation beyond the guidelines was justifiable for those cases in which special factors may be taken into consideration. The guidelines are being modified to make this explicit. In addition, this bill makes clear the power of the Appeal Tribunal to consider whether increases in compensation in excess of the guidelines are consistent with the purposes of the Anti-Inflation Act, in the case of an appeal against any outstanding orders of the Administrator.

Compensation in the Quebec construction industry is to be exempted from the federal guidelines, in accordance with the agreement under the anti-inflation program with the provincial government, which provides for the Quebec government to exercise responsibility for the application of the compensation guidelines in that industry, because of the unique compensation decree system presently in force in the province.

The authority of the Administrator to issue orders involving compensation will be broadened to allow him to issue an order affecting both employers and employees in compensation cases, in contrast to the current situation in which he is limited to issuing an order involving only one or the other party.

The legislation also permits members of the Tax Review Board to serve as members of the Anti-Inflation Appeal Tribunal.

Honourable senators might also be interested to note that clause 11 of this bill would require the concurrence of this chamber in addition to any motion adopted in the other place to terminate the Anti-Inflation Act.

I believe that the changes proposed in this bill will contribute to the strengthening of the national attack on inflation, which is already showing clear signs of progress in the moderation of the cost-price spiral and the consequent rate of inflation.

On motion of Senator Phillips, debate adjourned.

THE SENATE

TELEVISION AND RADIO COVERAGE OF HOUSE AND COMMITTEE PROCEEDINGS—ORDER DISCHARGED AND INQUIRY WITHDRAWN

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Greene, P.C., calling the attention of the Senate to the desirability of permitting complete television and radio coverage of the proceedings of the Senate and of the public proceedings of all Senate Committees.—(*Honourable Senator Robichaud, P.C.*).

Senator Robichaud: Honourable senators, I yield to Senator Greene.

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

Hon. Senators: Agreed.

Senator Greene: Honourable senators, I instituted this inquiry with the sanguine hope that the Senate could provide leadership in this area. I now understand that a government proposal will be brought forward in this respect. An inquiry here would scarcely be productive if the government, with all its power and machinery, is moving ahead to determine such things as the cost involved, the technical prospects of such coverage, and the effect on Parliament. It seems to me it would be non-productive for the Senate at this time to pursue the matter.

I regret my inability to find Senate rules under which this matter might have been expedited, because I think it would have been in the interest of the Senate to provide leadership in something that will eventually come to the forefront. I am now satisfied that the government has the matter in hand. I hope this inquiry had some bearing on the government's sudden initiative.

With the consent of the Senate, so as to not keep on the Senate's Order Paper a matter that will be brought forward in time through the other place, I would ask for leave to have this order discharged and the inquiry withdrawn from the Order Paper.

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

Hon. Senators: Agreed.

Order discharged and inquiry withdrawn.

HABITAT

UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENTS—REPORT OF CANADIAN NATIONAL COMMITTEE—DEBATE CONCLUDED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Buckwold calling the attention of the Senate to the Report of the Canadian National Committee on Habitat: United Nations Conference on Human Settlements.—(*Honourable Senator Petten*).

Senator McDonald: Honourable senators, on behalf of Senator Petten, I should like to yield his opportunity to speak at this time to Senator Norrie.

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

Hon. Senators: Agreed.

Hon. Margaret Norrie: Honourable senators, the report on the activities of the Canadian National Committee on Habitat for the forthcoming United Nations Conference on Human Settlements, given by Senator Buckwold, provided us with food for thought and action. We are fortunate indeed to have a man of Senator Buckwold's stature as chairman of this committee. As Senator Buckwold reminded us, since the 1972 United Nations Conference on the Environment, which took place in Stockholm, we have been confronted with severe problems of human settlements and the urgency in alleviating the various pressures on our land use and its peoples. This United Nations conference itself, to be held in Vancouver, will bring together delegates, accredited observers, officials and journalists. It thus will be the largest conference ever sponsored by the United Nations.

● (1420)

It is most interesting to note that special emphasis is being placed on solutions to environmental problems. There are nine objectives. Perhaps you will permit me to read them, because I think they are important in understanding the meaning of the conference.

1. To raise the level, in Canada and the other participating countries, of government, media and public awareness about the phenomena of urbanization, mass migration from rural to urban settlements, and the consequences for public policy.

2. To identify and recommend various national approaches to managing this dominant trend so as to improve the quality of human settlements, and to encourage acceptance of solutions that have been tried and found more or less successful.

3. To develop, debate and refer to government recommendations for more effective action at the national and international level on human settlement policies, strategies and programs.

4. To use Habitat—its preparatory process, the conference itself and post-conference activity—to achieve a greater consensus on the objectives and substance of Canadian human settlements strategy, and to promote and refine the development of intergovernmental and public/private mechanisms and processes to implement it.

5. To establish the central relevance of human settlements policy in the framing of national development strategies.

6. To achieve through Habitat a real commitment, first by national governments and then by the world community as a whole, to meet the needs of our poorest people.

7. To encourage national governments to go beyond these broad goals of national policy and state their commitment to achieve certain hard program targets in the basic areas, targets which can then provide priorities for national action and, just as important, priorities for international cooperation.

8. To focus the program targets discussed at Habitat on the most crucial needs for the least advantaged, especially in the developing countries. Further, Habitat cannot be

asked to guarantee the happiness of every individual. Rather, through the discussions at Habitat we can together devise reasonable targets for the reduction of suffering and the elimination of unnecessary misery.

The variety of settlement problems that depend for relief in the first place on safe water alone is one of the best examples of the interdependence of all of the solutions to our community problems. A poor man too sick to work because of bad water cannot benefit from the new job opportunities arising from a development project. In rural villages the world over, millions of woman-hours are wasted hauling water from distant sources. Simply by providing safe water in every community this wasted energy and capacity could be diverted to the more productive purpose of providing the essentials for human life in their communities, such as growing more food, helping to build shelters, schools and roads.

9. To encourage the industrialized nations to demonstrate that they will not permit the continuing abuse of their resources, that our cities must reverse a trend to blight in our urban cores; that concentration need not result in congestion and stagnation; that transportation need not control people and their settlement patterns but can be controlled to achieve desired patterns and reverse the trend to polluting our environment and dissipating finite resources.

Honourable senators, you might be interested in hearing about a few of the projects listed in Habitat, so that you can get a general idea of them. This will be the largest and most diversified audio-visual presentation of human settlements solutions ever assembled. And they are solutions, mind you. All these projects will be listed in the catalogue in Vancouver. Let me give you just a few of the titles: From Algeria, The Green Belt and 1000 Socialist Villages; from Botswana, Rural-Urban Drift; from Colombia, the Invasion of Colinas squatters; from Egypt, Greater Cairo; from Greece, New Towns Dealing with New Needs; from Hungary, Thermal Water Utilization; from Iran, Pardisan—A Persian Garden; from Israel, Conquest of the Desert; from Kuwait, Resettlement of the Bedouin; from Liberia, From Mats to Mattresses; and so on. There are several more, but I think that gives you a general idea of the kind of topics that there are.

The background work in preparation for Habitat has been intensive, extensive and global in scope, including a four-day symposium in Yugoslavia attended by 30 of the world's leading architects, planners, environmentalists and related experts who laid the philosophical basis for human settlements as an interdisciplinary science. More than 100 countries participated in four regional meetings in Cairo, Tehran, Caracus and Geneva and 30 special studies commissioned by the United National Habitat Secretariat.

In addition there has been the experience gained from four recent United Nations conferences:

Human Environment—Stockholm, 1972.

Population—Bucharest, 1974.

Food—Rome, 1974.

Status of Women—Mexico City, 1975.

The Right Honourable Pierre Trudeau, Prime Minister of Canada stated that:

[Senator Norrie.]

> No human need is more basic than shelter. Yet no country can claim that it provides adequate shelter to all its people. Nor can any country claim to protect its people from the consequences of inadequate shelter, impure water, congested transportation systems, primitive processes of waste disposal, the pressures which come from crowding, from noise, from fumes. Solutions to these human problems are available. That is why we in Canada have offered to host the Habitat Conference in Vancouver. Habitat brings variable solutions together offering governments the opportunity to share their knowledge. It holds out to everyone the promise of a planet that can yet become a wholesome human habitat.

At present 79 per cent of the families living in Calcutta have to share living space. Typhus and dysentery are endemic in almost all squatter settlements in Latin America. Only 45 per cent of the municipalities in Brazil have a satisfactory water supply system, and only 34 per cent have a sewerage system.

The Right Honourable Mr. Trudeau continued: "The world is our constituency. Yours, mine. Governmentally, personally." And finally: "It is as well a single, interdependent community."

● (1430)

Glaring headlines will arise from this concept, and this fact, of a single interdependent community.

The world's population has grown by 658 million persons in the past 10 years and could double to 8 billion in the next 40 years, according to the Population Reference Bureau in Washington. The task of supplying these billions of people with food, housing, jobs, medical care and education is staggering.

Let me concentrate, for the rest of my speech, on land use, food and agriculture. The use of agricultural land for agriculture only must have top priority. We have only 10 per cent of Class I agricultural land; that is, of the highest fertility category, in Canada. It is disappearing at a fantastic rate for other uses in the Niagara Peninsula where this Class I land is found. Urban sprawl and vast asphalt highways are covering this good farm land permanently. Of course, in the early days it was best to build on good farm land, and building often continues on the fringes of towns and cities.

Land use and transportation are interrelated, but very little integration takes place between the two. We can no longer afford to overlook this harmful use of our agricultural land.

The International Federation of Agricultural Producers says:

> Recently, the finite nature of land resources has become clearer, as well as the definitive nature of most non-agricultural uses. This new awareness has been connected with awareness of food crisis. Good husbandry, land conservation, and, indeed, environmental protection, are fundamental to efficient farming and food production.

Large sums of money must be spent for research in agriculture to keep our agricultural industry progressive and productive. Improvements in the quality of seeds,

livestock, soils and disease and pest control are vital to a healthy industry.

Land use, food and agriculture are so closely linked to one another and to our world population, and, indeed, to our very existence, that each topic must be conscientiously and continuously supported and guarded in order that we may contribute as a nation to world peace, prosperity and preservation. We in Canada spend 18 to 20 per cent of our income on food. Western Europe spends 20 to 25 per cent, Russia over 45 per cent, and in parts of Asia 75 per cent.

At the present time Canadians are well fed, food is relatively cheap, and we feel safe; but if we feed only ourselves, will the world's starving people allow us to continue to live in our selfishly oriented society?

Over the past 30 years the agricultural industry has increased its efficiency more than any other. Since 1946, agricultural productivity has risen 70 per cent, which is largely due to increased efficiency. A hundred years ago one farmer produced, on average, enough for seven other people. Today, one farmer produces enough to feed 50. In Russia the ratio is still one to three-and-a-half other people. Why is this? It is because our agriculture is based on more highly advanced research, and because of the free enterprise system. Unfortunately, this efficiency has resulted in hardship for many farmers and has caused producers to go out of business and to leave the farms at an alarming rate.

The percentage of decrease in the number of farms in operation between 1961 and 1971 was 24 per cent, and it is still continuing. We need these vacant farm lands, however, for production of food for worldwide markets. Habitat discussions will hopefully find solutions to these urgent problems, if we do our part and pool our ideas and knowledge.

Here are some startling facts to think about and act upon. Of the 12 fastest growing cities in the world in the next decade, all will be in developing countries. These 12 fastest growing cities will increase their population from a total of 46.5 million to 186.9 million between 1970 and 1985. Nearly half the municipalities of Latin America have neither sewage systems nor piped water. Rural farm population in Canada has declined rapidly. Its population decreased from 1.9 million in 1966 to 1.4 million in 1971. This is a decrease of 26 per cent in only five years. If India's population should grow as the United Nations projections indicate it will, the largest city in India in the year 2000 will have between 36 and 66 million inhabitants.

The report of the Canadian National Committee, submitted to the Minister of State for Urban Affairs, contains a portion called "Canadian Non-Governmental Organization Conference on Human Settlement." There are more than 250 non-governmental organizations in Canada. Regional branches and local organizations run into the thousands and include service clubs, religious organizations, special interest groups and professional organizations. They are going to meet at the Vancouver Habitat Conference and discuss their problems under the heading "Habitat Forum." This is a very important segment of this conference. These people have good ideas, and I was interested to read some of the resolutions they will be bringing forward from the meetings they have had so far. One dealt with human settlements policies, strategies and planning; another dealt with institutions, management and financing; there was one on housing, another on infrastructures and services, another with land use and ownership, another with public participation, and finally with an international program.

I would like to read the "Resolved" section of the resolution on land use.

> Be it resolved that satisfaction of the aboriginal rights and land claims of Métis and Non-status Indians, Status Indians and Inuit peoples of Canada be the number one priority for future human settlement policies for all levels of government in Canada.
>
> And further, be it resolved that aboriginal rights and title to the land be reaffirmed rather than extinguished as is the present policy of the federal government.
>
> And further, that native representatives be involved from the outset in political, economic and social planning at all levels so that their wishes and needs will be guaranteed in development projects involving their traditional and or treaty lands.
>
> And that no further major industrial development projects (Mackenzie Valley, Athabasca Tar Sands, James Bay, Nelson River Diversion) be proceeded with until aboriginal rights and land claims are settled to the satisfaction of the native people and that land claims negotiations not be conducted under the threat of these massive development projects.
>
> Be it resolved that the Canadian Government exert its influence with member countries in the United Nations General Assembly to reaffirm the aboriginal rights and land claims of indigenous peoples before economic development forever destroys the possibility of the retention of traditional lands.

The non-governmental organizations sent in these remarks about the native people:

● (1440)

> There is considerable concern about the disruptive impact of large-scale engineering and building operations on native people who traditionally move freely across the land as trappers, hunters and fishermen—a people for whom land, with the geese, the caribou, etc., is not only the basis of livelihood, but also the basis of culture and way of life.
>
> The problem faced by Indians and Métis is seen by some concerned citizens as the 'number one' problem in Canada. With the impact of large-scale developments, native people (and other concerned Canadians) complain that they are forced to give up their independent means of livelihood as hunters, trappers and fishermen and yet because they do not have the skills required in mining, engineering and building operations, they derive very few or no benefits from the new jobs created in their territory. They are forced into a new urban way of life usually as a minority group, and with the deplorable attitude of some southerners, they become strangers in their own territory and lose self-respect. They also face other new social and economic problems they cannot cope with.
>
> Canada's native peoples must find their directions between their historical values and life styles and the

pressures for their integration into the patterns of the 'major society.' It will never be possible or appropriate for anyone to prescribe any single course for them among these different destinies. They must be offered viable options, and helped to equip themselves to make these choices.

It was pointed out at Frobisher Bay and at other places that school curricula do not provide for the teaching of native language, and that it is shattering for a little Indian, Métis or Eskimo child to discover that his/her teacher cannot even pronounce his/her name. The children become alienated from their culture.

It is suggested that no community should be created or operated without:

(a) providing a real life for those who choose to live and work with nature; and

(b) providing a choice between education in the traditional cultures and skills and education in modern industry, commerce and culture.

These are the big problems facing everyone in Vancouver, honourable senators. I should like to conclude by saying that no country is so rich that it can afford to waste the contribution of any citizen, and no government is so poor, so lacking in neighbourly aid, that it can convincingly claim it has no answer to basic human needs, and no hope for distributing minimum standards of subsistence to all its human settlements.

Finally, honourable senators, it is Canada's hope that at Habitat the ethical will finally be recognized as the practical.

The Hon. the Speaker: Honourable senators, as no other honourable senator wishes to participate in the debate, this inquiry is now considered as having been debated.

The Senate adjourned until Tuesday, May 11, at 8 p.m.

THE SENATE

Tuesday, May 11, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Langlois tabled:

Copies of a statement respecting background information on Loto Canada, dated May 10, 1976, issued by the President of the Treasury Board.

Copies of an amendment, dated April 27, 1976, to By-law No. 1 of the Export Development Corporation, pursuant to section 16(3) of the Export Development Act, Chapter E-18, R.S.C., 1970.

Revised Capital Budget of the National Harbours Board for the year ended December 31, 1974, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-987, dated April 27, 1976, approving same.

Capital Budget of the Northern Transportation Company Limited for the year ending December 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copies of Order in Council P.C. 1976-989, dated April 27, 1976, approving same.

AERONAUTICS ACT

BILL TO AMEND—FIRST READING

Senator Langlois presented Bill S-34, to amend the Aeronautics Act.

Bill read first time.

Senator Langlois moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

AN ACT TO REPEAL THE PROPRIETARY OR PATENT MEDICINE ACT AND TO AMEND THE TRADE MARKS ACT

BILL TO AMEND—FIRST READING

Senator Langlois presented Bill S-35, to amend an act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act.

Bill read first time.

Senator Langlois moved that the bill be placed on the Orders of the Day for second reading on Thursday next.

Motion agreed to.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

AGREEMENTS BETWEEN THE FEDERAL GOVERNMENT AND PROVINCIAL GOVERNMENTS—QUESTION

Senator Forsey: Honourable senators, I have two questions to ask of the Deputy Leader of the Government tonight. He may have to take both of them as notice.

The first arises out of some fresh difficulties encountered by the Standing Joint Committee on Regulations and other Statutory Instruments. Our counsel tells me he is having the greatest difficulty in getting copies of the agreements between the Government of Canada and the governments of various provinces under the Anti-Inflation Act; and the distribution office tells me that these agreements have not been tabled, whether in the other place, or here, or both, I do not know. I cannot recall them being tabled here, but I may be mistaken on that point and I should like to ask the Acting Leader of the Government whether in fact they have been tabled and, if not, when we may expect to see them tabled in this chamber? Perhaps he would like to say something on that before I ask my second question?

Senator Langlois: Honourable senators, as my honourable friend must realize, I will have to look into this question before I can provide an answer. I undertake to do so at the earliest possible moment.

Senator Forsey: Thank you very much.

NATIONAL LOTTERY

METHOD OF PROCEEDING—QUESTION

Senator Forsey: Honourable senators, the other question has to do with the announcement recently—I think it was perhaps on Friday, or perhaps yesterday, in another place—of the government's proposal for a national lottery extending into the indefinite future. I should like to ask the Acting Leader of the Government whether it is the intention of the government to present a bill in this chamber or the other chamber, as seems to me to be the proper procedure, or whether it is going to proceed in some other way, as I rather gathered from the statement in the other place that it might, although I must confess that I was horrified to hear this. If it is intended to proceed in some other fashion, shall we be given by the government an opportunity of discussing this proposal in this house, because I think it is one to which some of us will have very serious objections, similar to those raised by the Conservative Party and the NDP in another place?

● (2010)

Senator Langlois: I understand that the same question was put in the other place this afternoon. I have not been able to obtain the answer which was then given, but I will

look into it. I will take this question as notice, and will reply at the earliest possible moment.

ANTI-INFLATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from Thursday, May 6, the debate on the motion of Senator Stanbury for the second reading of Bill C-89, to amend the Anti-Inflation Act.

Hon. Orville H. Phillips: Honourable senators, I should first like to thank Senator Stanbury for his clear and concise introduction of the amendment contained in Bill C-89. However, my gratitude does not extend to the extent of joining him in seeing the benefit and effectiveness of the anti-inflation program which the honourable gentleman could see.

Six months have now elapsed since the anti-inflation program was introduced, and perhaps this length of time should give us some indication of its acceptability and effectiveness in Canada.

Perhaps the best way would be to consider a few individual cases. First, let us consider the home owner who has had a five-year mortgage which is now renewable. He finds that his interest rates have increased from 9 per cent to 12.5 per cent on first mortgages. This will cost him at least an additional $75 per month. In addition, his average municipal taxes have increased at least $25 per month.

This individual now finds himself in this position. Five years ago he made a down payment on a home. He has paid on the mortgage for five years, and his principal, interest and taxes now cost him $100 a month more than they did five years ago.

Honourable senators will have a hard time convincing this individual that the program is working. If the home owner lives in the Atlantic provinces and heats his home electrically, he will find that his monthly heating bill has increased another $200 per month. Here again we will have difficulty in persuading this individual that the anti-inflation program is effective.

The new energy policy announced recently will further increase fuel and electrical costs. This individual will find that his heating bill will be at least $50 per month higher next fall than it was last winter.

Provincial governments, as I mentioned before, have requested assistance for this particular individual. Debate in the other place last week indicated that very little assistance will be forthcoming, so there will be many cold homes in the Atlantic provinces next winter unless the government changes its attitude.

Many Canadians living in urban areas, in order to avoid the high cost of homes in the centre of town, moved out to the suburbs. They now find that this was a mistake, because their gasoline costs are higher now that they no longer live downtown. Public transportation costs are also higher. These costs add to the monthly cost of living. We cannot say that the anti-inflation program is controlling costs in the public transportation sector. Costs in every sector of public transportation are increasing.

Members of various trade unions constitute a very large percentage of the Canadian population. Perhaps we should ask them what they think of the anti-inflation program.

[Senator Langlois.]

On the other hand, maybe it is not necessary. They are fairly vocal in telling us that the program is not working.

Perhaps we can inquire of the various groups across Canada who have been affected by the anti-inflation program. We can ask the Irving pulp and paper workers in New Brunswick what they think of the rollback of their negotiated wage increase. I do not expect we would get very much support from that group for the program. The common front in the province of Quebec does not seem to have a great deal of love for the anti-inflation program. They, too, are experiencing increases in the cost of living; they are experiencing increased taxation, and have indicated a great deal of unhappiness with the situation. The Toronto school teachers had hoped that they would benefit from the historical relationship clause in the legislation. Unfortunately, they received a history lesson they did not expect. The workers in the mining industry in Ontario and Manitoba have also received a setback in their wage negotiations, as a result of which they are unhappy with the program.

When the legislation setting up the anti-inflation program was introduced, I mentioned two groups upon whom I felt it would have adverse effects. The first group was the Maritime workers, who earn less than their counterparts in the rest of Canada. I have before me a list of the wage settlements approved by the Anti-Inflation Board, and I find that my concern in this regard was justified. The one or two settlements in the Atlantic provinces that have received the approval of the board are far below those approved for other regions of the country.

The other group I mentioned was that of the so-called working women. Women's professional and business groups have complained, with a great deal of justification, that they are being held back in their progress towards wage equality. This is due to the fact that 10 per cent of $10,000 is considerably less than 10 per cent of $15,000. The differential in wages as between men and women is continued under the anti-inflation program.

The general public will not accept the principles of the anti-inflation program while its members are crisscrossing Canada making pronouncements on policy and threatening to introduce stiffer measures if present regulations do not work. It is not the function of the bureaucrat to make policy statements. Policy statements should only be made by members of the government. It is one thing to have the Minister of Finance discussing a problem and threatening further measures; it is an entirely different thing to have the chairman of the Anti-Inflation Board running interference for him.

● (2020)

Public acceptance of the anti-inflation program would be much greater if items such as food and housing were controlled. In the past few weeks the wage earner has been forced to meet increasing costs of butter, bread and milk. On Monday of this week there was a statement by the Anti-Inflation Board saying that beef prices will rise 10 to 15 per cent in the next few weeks. The announcement goes on to state that in the next two to three months we can anticipate the cost of living rising between three and four points. We cannot say the program is working if forecast increases of this magnitude are allowed to occur.

Recently many newspapers in Canada carried a small cartoon depicting an individual reading a headline to the effect that the cost of living had increased, and he comments that it costs a fortune to be poor these days. I think this cartoon aptly describes the attitude of the average Canadian today.

If the items I have just mentioned were controlled, the public would be far more willing to accept the restrictions of the anti-inflation program. We can delay the purchase of a new car, wait another year to do home repairs or take a shorter vacation, because in many cases these are luxury items, but the essentials must be controlled in order that the program shall work.

In addition to controlling essential items, government spending must be brought under control. In the debate on the introduction of the program many honourable senators emphasized that point. Yet the estimates for the new fiscal year carry an increase of 22 per cent. The Minister of Finance has tried to justify this by saying, "Oh well, it is for the benefit of the Canadian public." The wage earner merely looks at the increased estimates and says that he does not have a 22 per cent increase.

In the past few minutes I have tried to illustrate that the program is not working and is not being accepted by the public.

Senator Greene: Would the honourable senator permit a question?

Senator Phillips: Certainly.

Senator Greene: The honourable senator referred to the concern of the provincial government about increasing energy costs. I would ask him whether his provincial government has cut back the retail gasoline tax, which is such a very substantial proportion of the cost of energy, in order to meet this concern of the provincial government that he has voiced.

Senator Phillips: In reply to the Honourable Senator Greene, I would point out that my provincial government has the same political affiliation as Senator Greene's. He therefore knows that they are just as fond of receiving taxes as anyone else, and probably more than some of the other provinces.

I was mentioning that while the Anti-Inflation Board has been calling for new and stiffer regulations, it has been largely ignoring the regulations passed last fall. A recent survey by the *Financial Times* produced some rather interesting results, showing that approximately 70 per cent of the settlements in the public sector were for pay increases beyond 20 per cent. At the same time the settlements in the private sector were lower, approximately 80 per cent being for pay increases of 15 per cent or less. This raises a rather interesting question. Is the Anti-Inflation Board inclined to grant more generous settlements in the public sector?

Unfortunately, the survey does not indicate how many Canadians did not receive a pay increase in the last year. It would be rather interesting to know how the non-unionized worker is faring, and how many of these people received increases in the last year.

The survey went on to state that since last October the average settlement in the public sector has been higher than in the preceding year. The average increase has been somewhere in the vicinity of 1½ per cent higher than before the institution of the Anti-Inflation Board. I wonder why the legislation contained the figures of 12 per cent, 10 per cent and 8 per cent if they are to be ignored by the Anti-Inflation Board.

The Senate has quite often heard reference to the speeches and remarks of the former Minister of Finance, the Honourable John Turner. I am sure that many of you heard his Toronto address, in which he stated that if the anti-inflation program was to work we should have had an across-the-board freeze for a period of time and then begin to consider individual cases. Honourable senators, it is not too late to return to the freeze. We still have approximately three years to go under the present legislation, and we could give consideration to this matter. Unfortunately, Bill C-89 does not include this in its amendments.

The Anti-Inflation Board recently came under criticism because there are several thousand cases awaiting decision. I was rather surprised to learn that the board meets three days every two weeks, which is six days per month, to consider appeal cases. With a backlog of approximately 4,000 cases, we must ask ourselves how long will it take to clear them up. It is of importance to those conducting wage negotiations to have a rapid decision. The matter of a recent award in the case of public servants was referred to the Anti-Inflation Board, and this group of public servants cannot expect a clear decision until at least September. Naturally, the effects on morale are not good.

When the program was introduced last fall many senators spoke of the necessity of controlling interest rates. Interest rates have now increased drastically and they not only affect homeowners, as I mentioned, but they also affect business both large and small. The businessman who has to borrow for financing must pay more, and, naturally, there is only one place he can recover and that is in the market place. This in turn reflects in the cost of living.

● (2030)

Several European countries, in their efforts to control inflation, have made an effort to control credit buying. In Canada credit buying is still very much in vogue. Credit cards are readily available and widely used. Yet this is one aspect of the anti-inflation program which has been completely ignored. When we use a credit card, usually 4 per cent of the amount of purchase is charged for its use. In addition, if the complete payment is not made within a month, the banks charge an interest rate of 18 per cent per annum. These items add to the inflationary fires and I feel it is time the government gave some consideration to placing restrictions on the use of credit.

Money supply is always very prominent in discussions on the control of inflation. The Bank of Canada, if it wished to place any sudden restriction on the amount of money available in Canada, would be restrained because of the adverse effects that would have on employment. The Bank of Canada hopes to keep the range of increase in the money supply somewhere in the vicinity of 12 per cent to 15 per cent per year. However, our high interest rates are attracting investments from foreign countries. We have the near banks bringing in huge sums of money, and that money is invested in Canada. But, those loans will have to be repaid with interest, and by allowing that practice to continue we are placing our anti-inflation program under restrictions for the next five years.

Bill C-89 contains an amendment to allow the Senate to exercise its constitutional responsibility on the cessation of the present legislation. This corrects an oversight in the original bill.

You know, honourable senators, I have often looked at the Leader of the Government in the Senate and compared him to his predecessor, and at times I had come to the conclusion that Senator Perrault was very much a paperback version of the Honourable Paul Martin. However, since he has kept his word in this regard—and I must congratulate him on that; I am sure he had his difficulties—I will now attempt to look at the honourable gentleman with a little more kindness and without making the comparisons I made before.

An Hon. Senator: You're all heart!

Senator Phillips: An amendment allows members of the Tax Review Board to sit on the Appeal Tribunal of the Anti-Inflation Board. I cannot say that I get overly excited about this amendment. It may expedite some of the appeals, but I look on the members of the Tax Review Board as being rather glass-eyed bankers, and I doubt if they will bring any great sympathy to that board.

Honourable senators, I thank you for your indulgence. I will have several questions to ask at the committee stage.

Senator Bell: Would the honourable senator answer a question for me? Did he say that the wage settlements in the Atlantic provinces were lower, on the average, than in other parts of Canada? If so, is the percentage increase less than the percentage increase in other parts of Canada?

An Hon. Senator: Don't confuse him with facts.

Senator Phillips: That was the impression I hoped to leave with the Senate. The use of the historical relationship works very much against the Atlantic provinces. Their wage settlements in the past have been smaller, and when a settlement in the Atlantic provinces is before the board, the board tends to look back and say, "Well, traditionally this has only been 8 per cent in the Atlantic provinces," and makes a ruling on that basis.

On motion of Senator Petten, for Senator Lamontagne, debate adjourned.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE CONTINUED

The Senate resumed from Wednesday, April 28, the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. Frederick William Rowe: Honourable senators, I am sure that some of you will be very sorry to hear that because I have not recovered fully from the cold I had last week I shall not be speaking at my customary length tonight.

Senator Choquette: Hear, hear.

Senator Rowe: I ask you to disguise your regrets as best you can.

I would like, however—and now I am serious—to take just a very short time to enunciate several principles in connection with this inquiry, but before I do that I would like to congratulate our colleague, Senator Bonnell, who is not here tonight, for two things: first, for introducing this inquiry, which is a very important one, and, secondly, for the excellent address that he gave in this chamber when he opened the debate on it.

I would also like to extend my congratulations to Senator Phillips. I am not referring to the speech he has just made, which I will probably refer to later in another context, but to the speech he gave in support of Senator Bonnell's words.

I do not think there have been any other speakers. If there have been, then I have not had a chance to catch up on my homework, and the oversight is not deliberate.

I would like also to extend my thanks to a distinguished member of the Senate for the assistance he has given me on a number of occasions when I have felt the need to go to him for his views on some constitutional aspect of this matter of transportation. I refer, of course, to Senator Forsey, who is, I think, acknowledged to be one of the leading experts on constitutional matters in Canada.

I am also going to do something that perhaps I should not do. I am going to invoke the name and words of a great Canadian who is no longer with us. I refer to a former Prime Minister of Canada, the Right Honourable Louis St. Laurent. I had the honour and very great privilege of spending a morning with him, in association with two other persons, during which time we discussed some of the constitutional aspects of the relationship between Canada and my own province of Newfoundland. I can say, and I am able to have this confirmed if necessary, that Mr. St. Laurent, who was recognized as the leading constitutional lawyer in Canada, agreed with the principles which I shall enunciate in a moment or two.

● (2040)

Back in the early 1950s, the Government of Canada came into the picture in respect of road building in a big way. That is, of course, when the trans-Canada highway agreement was adopted by the Parliament of Canada, under which agreement Ottawa contributed, or agreed to contribute, 50 per cent of the cost of building this national highway. This was a very important principle because under the Constitution, roads, as we know, are the prerogative of the provinces. But here, as I say, Ottawa came into the picture. On the face of it, and I suppose underneath it as well, it was a good thing, because for the first time Ottawa was coming into the road building business in a big way. But it was also somewhat deceiving in that on its face it appeared to be an impartial, fair agreement. Who could disagree with Ottawa's paying 50 per cent of the cost, with all of the provinces who decided they would come into the program paying the other 50 per cent? One could not very well disagree with it. But, as we analyzed it, we found that far from being a fair program, fair to all of the provinces, it was decidedly unfair and, in many respects, unjust.

Before I illustrate what I mean, let me say that I regret very much that Senator Walker is not in the chamber right now because I would like to express, rather belatedly, my appreciation to him, which I have already done on other occasions privately, because Senator Walker was Minister of Public Works in the Government of Canada and was, therefore, responsible at that time for implementing Canada's part in the trans-Canada highway agreement. At that

time I was Minister of Highways in my own province, and I had occasion to come to Ottawa to see him. He spent many hours with me and we went over the problems that affected Newfoundland—and not just Newfoundland, honourable senators, but some of the other provinces as well, like New Brunswick and, to a lesser extent at that time, Nova Scotia.

Senator Walker heard me out, sympathized with and appreciated the points I made. I took for comparison the Province of Newfoundland and the Province of Saskatchewan, because Saskatchewan was not one of the wealthier provinces and neither was it one of the poorest; it was a median province. I took this comparison at that time because Saskatchewan's population was exactly double that of Newfoundland's. If all other things had been equal, then, in respect of this trans-Canada highway program, the burden on Newfoundland should have been exactly twice as heavy as it was on Saskatchewan. But all other things were not equal. Saskatchewan's per capita income was again almost exactly double that of the per capita income of Newfoundland. So that made the burden, assuming that all other things were equal, four times as heavy on Newfoundland as it was on Saskatchewan. But again, honourable senators, other things were not equal. The length of the trans-Canada highway in Saskatchewan—and here I am speaking from recollection, and Senator Argue or somebody from that region can correct me if I am wrong—was almost exactly 300 miles as the route was designed, whereas in Newfoundland it was almost exactly 600 miles. And so the people of Newfoundland had to find 50 per cent of the cost of building 600 miles of highway rather than 300 miles as obtained in Saskatchewan.

If all things had been equal at that point, the burden on Newfoundland would have been eight times what it was on Saskatchewan. I repeat, honourable senators, the burden on the average Newfoundlander would have been eight times heavier than the burden on the average citizen of Saskatchewan. But yet again, all things were not equal. In Saskatchewan the highway was built on almost completely level ground across the prairies. There were some problems, as I recognize, but in Newfoundland we had to go uphill and downhill, and we had to cross every major river and about 80 per cent of all other streams, with all the implications that follow from that. As I say, we were going uphill and downhill, blasting through the oldest and hardest rock on the face of this earth, geologically speaking—Newfoundland granite—and digging out some of the worst muskeg to be found anywhere in Canada. That was the problem we had there. The result was that the average mile of trans-Canada highway in Newfoundland cost almost exactly twice as much as the average mile in Saskatchewan. So here we had another multiple of two which made it 16 times as burdensome on the people of Newfoundland as it was on the people of Saskatchewan.

Of course, this also applied in one way or another with respect to other provinces. They suffered from some of the same disadvantages. So, what on the surface at first appeared to be a very reasonable arrangement, a 50-50 arrangement, in practice turned out to be impossible for Newfoundland, as it was for some of the other parts of Canada as well. It was about as fair and as equal as was the law in France that Anatole France, I think it was, reminded us of—that law which in its majestic equality and impartiality forbade the beggars and the millionaires alike of France from sleeping under the bridges of Paris. It was a bed of Procrustes. It was one bed, and every province had to fit into it.

I pointed these things out to Ottawa, with very little success initially, and I am not referring to any particular government because when we pointed this out to the St. Laurent administration, they accepted, I think, the validity of the arguments but did nothing about the situation; neither did the subsequent administration. It was not until the administration of the late Mr. Pearson that we got some recognition of the validity of our arguments, and eventually got that 90-10 agreement which enabled us to finish our portion of the highway.

What happened in Newfoundland was this: we negotiated that trans-Canada agreement in either 1950 or 1951. Here I am speaking from memory; at any rate, it was very early in the 1950s. I remember that the Honourable Robert Winters was Minister of Public Works at the time. When I was the provincial Minister of Highways in 1959, 1960 and 1961, we had still not completed half of the highway across the island of Newfoundland. I pointed out, as did others, that this road was not being built merely for the benefit of Newfoundland. The rationality and the justification for Canada's coming into the picture was because it was a national highway, and necessary in the national interest. But unless we were prepared to sacrifice all our other public needs—the schools we needed, the university we needed, and the hospitals and all the other public services we needed—it would have taken us 25 years under that 50-50 agreement. I argued, and so did others, that it was in the national interest, and, indeed, that there was a moral imperative on the part of the Canadian government to change that 50-50 ratio in recognition of these other factors. Eventually this was done. But it took a long, long time, and it should never have taken that long for the Government of Canada to recognize that principle.

● (2050)

That principle, of course, has been extended very much since in the form of other cost-sharing programs, other great federal programs, notably the DREE program of recent years. What is the principle? It is that Canada is an entity; it is not 10 parts, or 12 parts, but an entity, and implicit in the whole concept of Confederation is the idea that the Government of Canada has responsibility—moral responsibility and, it could be argued, legal responsibility—to see to it that inequalities across the Canadian nation are removed insofar as it is humanly possible and humanly practical to remove them. We cannot deny the fact that Prince Edward Island is an island and that Newfoundland is an island, or the fact that the Rocky Mountains are in British Columbia. We, as a nation, must recognize these facts.

I have here an innocuous looking document, but it is rather important because it is part of the Constitution of Canada. It is the Terms of Union between Newfoundland and Canada which were drawn up in 1948. Coincidentally, the leader of the Canadian delegation at the time was the Right Honourable Louis St. Laurent, who I believe was Minister of Justice. In these Terms, which are now part of the British North America Act and thus part of the Consti-

tution of Canada, there are several clauses respecting transportation. Senator Bonnell has gone into them in some detail. One of those clauses provides as follows:

> Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port-aux-Basques, which . . . will include suitable provision for the carriage of motor vehicles.

I invite your attention to the fact that there are no qualifications there; there are no ifs, ands, or buts. It is explicit—Canada will maintain a ferry service. It does not say Canada will maintain a ferry service provided the officers and crews on the ferries are willing to work. It does not say Canada will maintain a ferry service for seven months of the year; that if by chance the stevedores in Port-aux-Basques or North Sydney decide to go on strike for the other five months there will then be no ferry service, that the responsibility of Canada at that point will cease. It does not say that, and I suggest that no court of law in Canada would accept that argument.

Senator Choquette: Is it not admitted?

Senator Rowe: We know, of course, that in the case of Prince Edward Island an appeal was carried on that very principle. They went to the Supreme Court of Canada. I believe the matter is still *sub judice*, and perhaps I should make no further reference to that aspect. However, the point I am making reference to—I do not believe this is in any way an infringement of the principles which guide us when a matter is before the courts—is that the responsibility rests on Canada to maintain that ferry service between the rest of Canada and Newfoundland. That is a legal responsibility in my view, and in the view, I believe, of Senator Forsey, but he will speak for himself. Certainly, it was the view of a man who was once Prime Minister of Canada. There is a legal responsibility there, and if there were no legal responsibility there would be a moral responsibility, and there is a moral responsibility.

Two or three years ago in the middle of the summer, for the entire month of August and part of September, when our tourist trade was at its height and tens of thousands of people were visiting from California, Texas, British Columbia and every other part of North America and other parts of the world, that ferry service was discontinued. I do not contest the right at all of the stevedores at Port-aux-Basques or North Sydney to cease work. I do not contest that. I could say the same thing if the captains or crews said they would not work, and walked off. However, what I do assert and affirm is the moral obligation of the Government of Canada to maintain that service. I say to you now, honourable senators, that this was one of the most shocking episodes in the history of relations between Canada and Newfoundland.

One other episode, which I shall not go into now, appalled the Newfoundland people. In the 27 years since we have been part of Canada, this service has been a lifeline. There would have been no Confederation, no union with Canada, had that clause not been included and had Canada not agreed to take responsibility for that ferry service which forms our lifeline. To cease the ferry service is the equivalent of cutting every single road connection between Ontario and Quebec, or between Ontario and Western Canada. Try doing that for four weeks and see what the reaction of the people of Quebec and Ontario would be. It was done in Newfoundland and the Government of Canada, I regret to say, sat by and allowed it to happen. I say now—and this is not a threat; it is a prediction—no matter what government is in power in Ottawa, if that happens again and that ferry service is ever allowed to be disrupted by anything other than acts of God, the people of Newfoundland will repudiate that government at the first opportunity. They will repudiate it virtually unanimously, as they did in connection with another incident in respect of relations between Ottawa and Newfoundland. They will do it again and, of course, they will do more than that; political action is not enough. I am quite sure that if that should happen again Prince Edward Island will not be alone in taking legal action. I say to you, honourable senators, that it is a disgrace for a little province such as Prince Edward Island or for Newfoundland to have to take action against the government of all Canada on a matter which is so vital and crucial, and in which they are so right.

I had wished to make some other points about this aspect, but I shall not do so because I realize that there are other interests affecting us tonight. I wish to close on this point. What I have tried to enunciate here and what Senator Bonnell tried to spell out two weeks ago, let no senator, let no one outside this house, think is an internecine quarrel or dispute between the Government of Canada and one single province. This is a matter which affects all Canada. When Mr. St. Laurent, Mr. Claxton and the other ministers in the Government of Canada, and the Parliament of Canada, including this chamber, ratified that agreement they were obliging the people of Canada, they were putting the responsibility on the people of Canada, all Canada, to see that the obligations were adhered to. So I say to you that this matter is the concern not just of the few Newfoundland senators here, or of Senator Forsey, who happens to be a Newfoundlander but who does not represent Newfoundland; it is the concern of every senator in this body, as it is the concern of every member of the other place also. It is a little ironical that, in a literal sense, Newfoundland and Prince Edward Island are islands. It was Donne who said "No man is an Island." I say to honourable senators that no province is an island, that when we hear that bell tolling, it is not tolling for the humble fisherman or logger of Newfoundland or the farmer of Prince Edward Island. When we heard that bell tolling three years ago, when the Government of Canada allowed those two provinces to be completely isolated for four weeks, the bell was tolling not just for Prince Edward Island or Newfoundland, but for all of Canada.

● (2100)

On motion of Senator Duggan, debate adjourned.

CORPORATIONS AND LABOUR UNIONS RETURNS ACT

REPORT OF MINISTRY OF INDUSTRY, TRADE AND COMMERCE—DEBATE CONCLUDED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Desruisseaux calling the attention of the Senate to the Report of the Minister of Industry, Trade

and Commerce under the Corporations and Labour Unions Returns Act (Part I, Corporations) for the fiscal periods ended in 1973, tabled in the Senate on 9th March, 1976, and the Report of the Minister of Industry, Trade and Commerce under the Corporations and Labour Unions Returns Act (Part II, Labour Unions) for the fiscal periods ended in 1973, tabled in the Senate on 2nd December, 1975.—(*Honourable Senator Petten*).

Senator Petten: Honourable senators, when I moved the adjournment of this debate, it was my understanding that several other senators wished to participate. As no honourable senator has indicated his wish to do so, may we now consider this inquiry as having been debated?

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, May 12, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Langlois tabled:

Copies of *Ad referendum* Text of an Agreement between the Government of Canada and the Government of the United States of America concerning Transit Pipelines, initialled January 28, 1976.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

AGREEMENTS BETWEEN THE FEDERAL GOVERNMENT AND PROVINCIAL GOVERNMENTS—QUESTION ANSWERED

Senator Langlois: Honourable senators, yesterday Senator Forsey posed two questions. The first had to do with the tabling of the agreements between the federal government and the provinces under the anti-inflation legislation. My answer is as follows.

On March 16, 1976, a copy of an Agreement between the Government of Canada and the Province of Quebec under the Anti-Inflation Act was tabled in the Senate. My information is that agreements with all the provinces except Saskatchewan and British Columbia have now been signed. The government is now negotiating agreements with these two provinces. The House of Commons advise that only the Quebec Agreement has been tabled in that house. I have obtained copies of the agreements already signed for the honourable senator, and copies will be tabled in the Senate when the minister tables them in the other place.

Senator Walker: Is my friend going to synopsize the agreements? Is he going to tell us what the agreements are?

Senator Langlois: These agreements are long and complicated documents.

Senator Walker: We will read about them in the newspapers.

Senator Langlois: The one with Quebec has already been tabled and is available. It has been tabled in the Senate. It has to do with the application of the anti-inflation legislation.

Senator Walker: Thank you very much.

NATIONAL LOTTERY

METHOD OF PROCEEDING—QUESTION ANSWERED

Senator Langlois: Honourable senators, the second question put to me by the Honourable Senator Forsey had to do with the proposed national lottery which is to be known as Loto-Canada, and especially the method of proceeding in Parliament with the establishment of this lottery.

Yesterday I tabled in the Senate a statement respecting the background information on Loto-Canada, dated May 10, 1976, issued by the President of the Treasury Board. This document was tabled in the other place on Monday, May 10, by Mr. Chrétien. It is apparent from the statement made by the minister at the time of tabling that the approval of Parliament would be sought with respect to the new lottery before the end of June. Whether this would be done by a bill or resolution has not yet been decided.

For the information of the honourable senator, I am sending him a copy of the background information which I tabled yesterday.

Senator Forsey: May I ask a supplementary question arising out of that, honourable senator? "The approval of Parliament will be sought either by bill or resolution." I assume then that if it is by resolution, the resolution would be presented in this house as well as in the other place, am I correct in that?

Senator Langlois: The best way to answer that question is by repeating what Mr. Chrétien said in the other place. I quote from page 13337 of the Commons *Hansard* for May 10. Mr. Chrétien was answering Mr. Knowles concerning what parliamentary time would be put at the disposal of the members of the other place for discussion of this motion or proposed legislation between now and June 30. Mr. Chrétien said:

● (1410)

> Mr. Speaker, it depends on the formula the leaders of all parties would endorse to have a debate on that motion. Substantially, it is the same bill that we had in the past, except that for the next three years, it will be under federal government control and that under the Corporations Act and the Criminal Code, we could create a Crown corporation without having to pass legislation.
>
> However, there are many ways to put forward this project for the approval of the House and I am sure the President of the Privy Council (Mr. Sharp) will have discussions with his counterparts of other parties. We could even proceed by a budget item, if needed, but I would rather submit to the House a motion which would be debated during one day, and then we could have a vote. Or we could accept the suggestion that the opposition leader (Mr. Clark) kindly put to us, that is adopt a bill after all stages in two days.

Senator Forsey: Honourable senators, surely that still does not answer the question whether the matter will be brought up here, unless the government proceeds by way of a bill, in which case clearly, of course, it would come before this house. But if it proceeds by way of resolution, I

do not see anything in Mr. Chrétien's answer, which I also have before me, which says anything about this house at all. It seems to me it is quite clear that this is a matter on which this house should have a right to pronounce its views.

Senator Langlois: Honourable senators, it would seem obvious that it is difficult for me to make a statement for the minister since the question has not even been decided in the other place yet. They will discuss it and then they will decide which way to proceed. If it is done by an act of Parliament, then, obviously, it will have to come to the Senate. If it is a mere motion I doubt that that should come to this place. However, the matter is still open to discussion in the other place and I assume a decision will be made in due course.

Senator Grosart: Perhaps the Acting Leader of the Government could answer the question put by Senator Forsey a little more precisely by telling us whether, if the government proceeds by resolution in the House of Commons, the government will proceed by resolution in the Senate.

Senator Forsey: Hear, hear!

Senator Grosart: That is Senator Forsey's question and I believe it can be answered by the leadership of the government in this house.

Senator Argue: Take it as notice.

Senator Langlois: Honourable senators, there was no mention of a resolution made by Mr. Chrétien in the other place yesterday. I do not even know what proposal was made by the Leader of the Opposition in that chamber. So it all depends on the method adopted by the House of Commons. Apparently there will be a meeting of the leaders of the other house and then the government will make its decision. Whatever that decision is, the government will have to abide by the rules of Parliament. Obviously, therefore, if the measure needs the approval of the Senate it will surely come to the Senate. If it is a mere motion, then I doubt that such a motion will have to come to this place.

Senator Grosart: Speaking for this side, I am sure I can say that we would regard that as a most unsatisfactory answer.

Senator Forsey: Hear, hear!

Senator Grosart: Surely it is for the government to decide whether the Senate will be consulted on this important matter. Surely we can have an answer to that, regardless of any hypothetical situation, regardless of whether it is by way of a bill, incorporation in a budget item, or resolution. All we are asking is whether the Senate will be consulted and given an opportunity to debate this important matter.

Senator Langlois: Honourable senators, I am sorry that my honourable friend is not satisfied with my answer, but what he is asking me to do is to make up my mind about something which has not yet taken place, and even before the government has actually made up its own mind in that respect, and that I cannot do.

An Hon. Senator: Hear, hear!

Senator Grosart: What I am asking is for the government to make up its mind about its attitude towards the Senate.

Senator Langlois: Why do you not wait for the government to make up its mind before asking this question?

Senator Grosart: We may wait forever.

FOREIGN AFFAIRS

CANADIAN GOVERNMENT ASSISTANCE TO ITALIAN EARTHQUAKE VICTIMS—QUESTION AND ANSWER

Senator Thompson: Honourable senators, I should like to ask the Acting Leader of the Government a question. In view of the deep concern which I am sure is felt by all members of the Senate towards the victims of the earthquake in Italy, could the acting leader give us a progress report on what the Canadian government is doing to assist these people. Secondly, is any role of coordination being played by the Canadian government with regard to the voluntary organizations which are working in the Italian communities across Canada?

Senator Langlois: Honourable senators, my answer to the first question is the following:

On receipt of the report of the serious casualties caused by the heavy earthquake in the area of the province of Friuli in northeastern Italy during the night of May 6, the Canadian government made available the services of a 200-man field hospital and medical support unit from the Canadian forces in Europe assigned to NATO and stationed in southern Germany. The Canadian field hospital and medical support unit, strengthened by a field engineer detachment and three light helicopters, are now operating in the villages of San Danielle and Venzone, north of the city of Udine. As the nature of the requirements changes from immediate medical needs, we will adapt our response accordingly.

The Canadian government is keeping in close contact with the Italian authorities, and it hopes to be able to continue to make a concrete and valuable contribution towards coordinating the assistance being directed towards the unfortunate victims of the earthquake.

Regarding the second question, it is my understanding that the honourable senator is referring to funds which have been and are being collected by non-governmental groups. Since this is being done through private initiative, and since the government is not itself involved in this fund-raising effort, the government is not involved in the administration of the funds. I would therefore suggest that information concerning the administration of the funds be sought from those who are directly involved in raising the funds. I should add that the government very much appreciates the efforts made to raise funds from the Canadian public for assistance to those affected by the earthquake, and it is our hope that these funds will be used in the most effective ways possible.

ANTI-INFLATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Stanbury for the second reading of Bill C-89, to amend the Anti-Inflation Act.

[*Translation*]

Hon. Maurice Lamontagne: Honourable senators, I should like to say first that I support the bill now under study, because its main purpose is to remove an unfair anomaly. However, I would have hoped that Bill C-89 had gone further and corrected other deficiencies which, in my opinion, detract from the efficiency and the fairness of the anti-inflation program. But before emphasizing these deficiencies, I should like to recall very briefly the reasons and the original purpose of the implementations of controls.

[*English*]

In my view our country, with its open economy, cannot do much better on the inflation front than its main partners and competitors abroad, especially the United States; but it cannot afford for long to do much worse. In recent years, and up to the end of 1974, our performance in this respect had been as good as or better than that of all the other industrialized countries, except western Germany. The last recession altered this whole situation. Its severity and duration in western Europe, in Japan, and in the United States had the effect of substantially reducing the rate of inflation in those countries. In Canada, however, the recession was relatively milder and shorter. The decline in real gross national product from the peak of the boom to the bottom of the recession was 6½ per cent in the United States and 5¼ per cent in Germany, but just 1½ per cent in our country.

● (1420)

The result was that Canadian labour leaders were able to maintain their aggressiveness; unit labour costs kept rising and pressures on the overall price structure remained strong. In the latter part of 1975, the gross national expenditure implicit price index was close to 10 per cent. Compared with a rise of 13.8 per cent in 1974, such a rise represented an improvement, but it was significantly higher than in some other industrialized countries. For instance, by the end of 1975, Germany, Japan and the United States were experiencing rates of price increase in the 5 to 7 per cent range.

It is in this kind of domestic and international context that the government decided last October to introduce its anti-inflation program. Its initial objective, at least as I interpreted it, was not to stop inflation—this is impossible in today's world—but to bring the rise of incomes and prices in Canada more in line with the pattern experienced in several other industrialized countries, particularly in the United States. As such, the goal appeared desirable and realistic; the program itself looked to be a manageable and fair short-term stopgap.

Indeed, it seemed manageable without requiring a huge bureaucracy. It covered about 6,500 firms and their workers in the business sector. Compliance with the wage guidelines did not create particularly complicated monitoring problems. While the application of the rules concerning prices was more difficult to monitor, evasion could be easily detected and corrected by the provisions regarding excess profits.

Moreover, it could be expected that the program, as it evolved, would be made still more simple than it originally was by removing features likely to cause unnecessary administrative complications or undesirable economic results. For instance, it was unnecessary and confusing to require businesses to operate under two different base periods for the purpose of measuring excess profits. It was clearly undesirable to attempt to limit industrial research and development expenditures when it was widely recognized that such expenditures were already much too low in Canada, and that this inadequate effort was a major factor accounting for the poor innovative performance of our manufacturing industries. The Anti-Inflation Board could also be expected to translate as many qualitative guidelines as possible into quantitative rules so as to reduce to a minimum the number of subjective and tailor-made assessments, to facilitate compliance by business and to simplify the board's role.

Unfortunately, the program did not evolve in that direction. On the contrary, it has become more universal in coverage, more arbitrary in its application and, therefore, less manageable.

First, the number of firms and workers covered by the guidelines has been considerably increased. While it is true that export industries have been exempted from the guidelines, the board is still expected to monitor their behaviour. Moreover, the Minister of Finance announced on March 8 the extension of the program to all suppliers in the construction, trucking, grain handling and longshoring industries and most of the shipping industry. It is estimated that, in addition to the public and professional sectors, the guidelines now apply to more than 51,000 companies and their employees in the private sector. Thus, the program, which could be described at the beginning as a selective system, now tends to become a scheme of general controls.

Secondly, the Anti-Inflation Board has not made the system more simple and the guidelines less qualitative. On the contrary, it is following a case-by-case approach, and it is involved more and more in tailor-made assessments and in individual deals. This approach and this involvement mean, as the scope of the program is extended, that the board will be swamped by individual requests requiring a rapidly growing bureaucracy, and producing more and more delays, uncertainty and confusion.

Thus, as the anti-inflation program evolved, it became less and less manageable. It was reported in the middle of March that there was a backlog of about 1,000 requests for rulings by the board on proposed pay awards alone. As this accumulation grows the program itself may well get out of hand. In my view, those who are responsible for its design and its administration have lost sight of its initial limited objective, and they have come to expect from it more than it can deliver. In the process, if they do not change the present direction they will make it unworkable.

At the beginning, the anti-inflation program appeared to be fair. At least, it corresponded to what was called rough justice. Some of the criticisms made by the labour movement were justified. For instance, firms were entitled to increase their prices every three months to compensate for rising costs but workers had to wait for a year to receive cost-of-living adjustments. Moreover, the role of the board with respect to prices and profits was much less visible than it was with regard to wages.

In my view, the rule of confidentiality followed by the board has been much too strict. While in certain cases it

might have been undesirable to identify the companies which had been subjected to the board's rulings, it would certainly have been possible to make public, let us say on a monthly or quarterly basis, the number of requests reviewed and the decisions made, without necessarily referring to individual businesses. I believe that it would still be quite possible to improve the system so as to meet some of the justified criticisms presented by labour leaders.

However, the overall attitude taken by most of these leaders at the outset and since the implementation of the program has been most irresponsible, especially if it is compared with the recent decision of British unions to limit their wage demands to an annual maximum of 4½ per cent. Indeed, it must be recognized that, on the whole, the guidelines as they were originally conceived were harder on stockholders and businesses than on employees. The program froze dividends and profit margins but allowed wage rates to rise by as much as 12 per cent. However, the rough justice provided at first by the guidelines has been seriously eroded since.

● (1430)

The case-by-case approach followed by the board, involving qualitative assessments as it does, is producing or at least appears to result in unfair discrimination. Moreover, the fact that export industries were exempted from the guidelines on February 26 has created, in my view, major sources of unfairness. This exemption deserves further comments and must be viewed in its proper background.

When the anti-inflation program was announced, a distinction was made between domestic and export industries. Domestic industries were submitted to two sets of rules regarding prices and profit margins. If they showed excess profits during any compliance period, they were and they are still required to dispose of them either by reimbursing their customers or by reducing prices or by giving them to the government as a surtax.

Export industries were exempted from the price rules but subjected to the profit margin guidelines. If their rate of profit in any compliance year exceeded 95 per cent of the average rate during the five years from 1970 to 1975, the excess profits thus generated had to be paid to the government in the form of a special levy. However, up to 90 per cent of the levy could be refunded to companies to help finance new capital investment in productive facilities and other specified projects.

Thus, the refund provision applying to export industries already represented a discrimination in favour of this sector of our economy. But it could be defended on the ground that it was to Canada's advantage to favour a greater national export capacity, although the basic program already offered such an incentive since higher revenues generated by an increased volume of sales were not considered as excess profits.

The government's decision not to proceed with the export levy measure was taken at the insistence of the provinces. In my view it does not make it more defensible. It cannot be justified on the ground that it will encourage the expansion of our export capacity because export industries are now completely free to do whatever they want with their excess revenues; they can even invest them abroad, which they might well do. This decision cannot be defended on the ground that export industries need a special treatment because, on the whole, they constitute the most powerful and prosperous sector of our economy.

On the other hand, the government's decision creates two major sources of unfairness. First, export industries are now free to increase their profit margins as much as they can and to use their higher profits for their own purposes but domestic industries, which are on the whole relatively weak, will have to lower their prices or pay a surtax to the government in order to dispose of their excess revenues. This is not only unfair but also most likely to introduce further artificial and undesirable distortions in the structure of the Canadian economy.

Secondly, while export industries are free to increase their revenues as much as they can, their employees are subjected to the wage guidelines. How can we expect that the labour unions concerned will tolerate such an unfair situation when they were strongly opposed to the original program which was much more equitable? I am surprised indeed that the total exemption from the guidelines granted to export industries at the end of February has not already generated more criticism than it has.

For the reasons I have given and others, the anti-inflation program is in great danger of becoming completely unmanageable mainly as a result of serious mistakes made in the course of its implementation. Some of those errors can still be corrected. For instance, the decision taken on March 8 to bring nearly 45,000 small firms under the program should be rescinded. Moreover, the Anti-Inflation Board should try to stick as much as possible to general quantitative rulings rather than get involved in individual qualitative assessments.

However, imperfect as it is, the basic program should not be abandoned at least until the movement of prices in Canada follows more closely the American pattern. In the meantime we should all try to develop a better and more permanent approach to the problem of inflation. We should beware of those who tell us that the inflation psychology will soon go away. They are like the god in the Greek legend who said:

> I caused mortals to cease foreseeing doom . . . I placed in them blind hopes.

Inflation has become a chronic disease of modern societies. Rising expectations, rising monopolistic power, rising scarcities are the basic causes of the disease and they will not soon disappear. Unless we learn to restrain ourselves individually and collectively, we will have to accept controls or to suffer from chronic inflation.

Hon. George C. van Roggen: Honourable senators, I have not come today prepared to speak to this matter, and I do not intend to take up your time with an extended speech on the subject. However, as a British Columbian and a person from a resource province I could not let some of Senator Lamontagne's remarks relating to the export levy go by without making one or two comments.

The intial concept of the export levy was undoubtedly based on the American experience, when they had their introduction to price and wage controls. It was found that companies in the United States would seek the more lucrative foreign markets for their products, thus creating

shortages and placing a further upward pressure on the cost of commodities in the United States.

There is a fundamental difference between the American experience and the Canadian experience relative to the export levy. The American economy was being affected adversely by exports of general products, including manufactured products, approximately 80 per cent of which were consumed domestically and a small percentage consumed in the export market. That higher price obtained in the export market was just sufficient to put an upward pressure on prices at home. Our export industries are entirely different from the manufacturing industries in the United States. In many cases, almost 100 per cent of the production of our industries is sold abroad and not at home. It is the foreign price which our industries must get if Canada is to prosper.

I know Senator Lamontagne will not suggest for a minute that we should not get the maximum possible foreign price, but the mechanism was to be that much of this would find its way to the government.

The fluctuation in the price of commodities in the world produces peculiarities in price structure which are simply unknown to manufacturing industries. If it costs $20 to manufacture a toaster and you sell it for $25, you cannot all of a sudden sell the thing for $10. You can sell it for $23, possibly, if the market is poor, or $22 or $27, but the price is not going to fluctuate between $8 and $40. However, the resource industries have to cope with such fluctuations.

● (1440)

At the time the export levy was imposed, the majority of the resource industries of Canada were operating in a depressed world commodity market, where they were getting one-third or one-quarter of the prices they were getting three or four years earlier. To then provide, as the economy of the world improves and the prices of those products come back to a level which would see the companies again breaking even, that that extra income should be peeled off by the government would bankrupt many industries in the resource area.

In addition, the impositions on the resource industries in my provinces—such as higher corporate taxes and other imposts by governments, both provincial and federal—have reduced their liquidity to such an extent as to cause real concern as to whether many of them will be able to withstand the next downturn in the commodity markets of the world. These downturns occur regularly, so when you come to the resource industries you have to apply rules which are entirely different from those you apply to manufacturing industries. It seems to be very difficult to get this point across to central Canada, and to the public servants in Ottawa.

Honourable senators, the point I should like to make is that the export levy should not have been suggested in the first place, because it is unnecessary in our context. The comparison was not legitimate insofar as it related to the United States experience. The monitoring that should be done by the government relative to the resource industries is to make sure that that small percentage of their production which is sold in Canada is kept at as reasonably low a price as is commensurate with the health of the industries. But their export prices and the increases that they will receive from an increasing export market, in many cases, will only bring them back to the break-even point.

[Senator van Roggen.]

I apologize to honourable senators for speaking without prepared notes, and for not having my remarks better marshalled, but I did not want this particular point raised by Senator Lamontagne in his excellent address to go unchallenged by somebody who has a concern for the resource industries.

Hon. A. E. Haddon Bell: Honourable senators, I concur in the remarks Senator van Roggen has just made. I found Senator Lamontagne's explanation extremely interesting, but as it related to the resource industries of Canada, the export levy, as Senator van Roggen explained so clearly, would simply not have worked.

I should like to add just two small points. One is that we have a desperate need for foreign exchange in our balance of payments. One company in British Columbia, a forest products company, earns $1 million a day in foreign exchange just from the American market. That company also exports to Australia and other countries in Southeast Asia. This is very important to us right now. And yet that company, according to its last annual report, was in a loss position for the first time in its corporate history. It was in serious condition, and the export levy would have made life very difficult for it.

Just by the way, it is of interest to note with respect to our mining industry that there is only one so-called mineral which is not mainly exported, and that is gravel. Mining is a very important money earner for Canada.

The other point I should like to add is with respect to our employment situation. The president of the western segment of the International Woodworkers of America—who is, I suppose, one of the most powerful of our labour leaders—came out immediately and complimented the government for withdrawing the export levy because it meant so much to the employment of people in the forest industries.

Senator Lamontagne: Honourable senators, I have quite a number of questions to put to Senator van Roggen, but I will restrict myself to one, having disrupted the agenda for this afternoon too much already. I should like to ask Senator van Roggen to what extent the export levy would have affected the liquidity of the export industries.

Senator van Roggen: Senator Lamontagne, like you, I do not wish to take up an undue amount of the time of honourable senators this afternoon by dealing with such matters when I am not adequately prepared. I can give you one example, and that is, the provision in the export proposal that 90 per cent could be drawn back if put into new plant. Why the 10 per cent should be stolen on the way is a question we have never had answered. One hundred per cent could have been taken back, and I am sure we would all agree with that. The problem was that that could only come back if and when it went into new plant. There are many other examples I could give you, having regard for the state of the industry in British Columbia today.

Senator Lamontagne: Excuse me for interjecting, but it was not restricted to new plants.

Senator van Roggen: New plants and equipment. If I am wrong in that, you can correct me. There are many instances of companies, particularly in the forest industry,

which need that money for liquidity purposes; not for new plants.

On motion of Senator Macdonald, for Senator Asselin, debate adjourned.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. James Duggan: Honourable senators, I am pleased and happy to have the opportunity to take part in this debate dealing with transportation as set out in the British North America Act, and as it pertains to the province of Newfoundland. Transportation is essential to the existence and well-being of the limited economy of Newfoundland and its people. The position of Prince Edward Island and Newfoundland is comparable in many, if not all, viewpoints.

Honourable senators, I sincerely trust you would not label me as vain if I were to think out loud that the question I asked on March 10, and the answer I received, prompted Senator Bonnell to ask a supplementary question. The answers to both questions glittered with exuberance of evasion, dealing not with the questions and making it apparent that the shadow was dealt with instead of the substance. The apparent evasion aroused and inspired my friend and colleague Senator Bonnell to take the action he took to get this important subject on the Senate Order Paper in the form of an inquiry, and he accomplished this in a forceful and convincing manner.

● (1450)

Senator Bonnell said:

> It is my hope to bring to the attention of the Senate the terms of the British North America Act as they affect transportation in Canada with special emphasis on the province of Prince Edward Island.

It is also my sincere hope to bring to the attention of the Senate the Terms of Union between the Dominion of Canada and the Dominion of Newfoundland which became effective on April 1, 1949. As in the case of Prince Edward Island's entry into union, with a number of other provinces, the British North America Act was the basis of the terms which were negotiated between the Dominion of Canada and the Dominion of Newfoundland for union of the two dominions. Needless to say, the aforementioned terms of union became an amendment to, and they form part of, the British North America Act and are, therefore, embraced within the orbit of this debate on transportation in Canada.

Term 31 spells out what the Government of Canada was prepared to do, and it commences as follows:

> At the date of Union, or as soon thereafter as practicable, Canada will take over the following services and will as from the date of Union relieve the Province of Newfoundland of the public costs incurred in respect of each service taken over, namely,
>
> (a) The Newfoundland Railway, including steamship and other marine services—

And it goes on to specify the services to be taken over.

I submit, honourable senators, that it was the unvarnished belief, not only of the members of the Newfoundland delegation who negotiated and signed the document, but also of every Newfoundlander who supported it, that the phraseology of that document meant what it said, and was above reproach.

The former Minister of Transport, the Honourable Jean Marchand, in announcing a new national transportation policy on June 16, 1975, stated that the Department of Transport was in a mess. It is my opinion that any knowledgeable person would be on safe ground in saying that transportation in the province of Newfoundland defies description at this time.

Just what has caused such a state of affairs? It would appear that the Government of Canada, following the date of union, entrusted to Canadian National Railways the operation, maintenance et cetera, of what was formerly known as the Newfoundland Railway and Steamship Services. I have to say here that I would feel ungrateful if I did not harbour some semblance of sympathy and understanding for Canadian National. It was obliged to take over a batch of worn-out passenger and freight equipment, and a railroad bed in a sick and dilapidated condition, brought on by overload handling of war equipment, armed forces personnel, and lack of maintenance. It must, therefore, be written off as just another of Newfoundland's contributions to the battle of the Atlantic and the allied war effort.

I submit, honourable senators, that the management of Canadian National reluctantly—very reluctantly— adopted this strange and complicated relative, and never did endeavour to establish a proper relationship. Not too many years elapsed before it became evident to Newfoundlanders in general, and to railwaymen in particular, that the seeds of phase-out were being planted, and would be carefully cultivated and grown in time. It would seem to suggest that while roadbed improvements consistent with safety were being executed, little, if any, new passenger train equipment was to be placed in service, notwithstanding the fact that a booming rail passenger business was in evidence on a daily basis but with a limited "train consist", with apparent administration by remote control from across the continent—Moncton and/or Montreal.

The limited "train consist" is the make-up of the train and, on a daily basis, was generally as follows: three sleeping cars; three day coaches; one dining car; one baggage car; one express car; and one mail car—a 10-car train in total. Little, if any, consideration for change in this "train consist" was to be entertained without consultation, even when a backlog of passengers was becoming evident. If additional cars were to be added, this move, if executed, in some instances was not begun until within minutes of the departure time of the train.

It would appear that the yardstick by which the regular "train consist" was measured was the number of passengers standing in the aisles of the three regular day coaches, and the number of applicants on the waiting list for sleeping-car accommodation, over and above the regular quota

for the three regular sleeping cars. When the regular aisles began to show signs of clearing of standees and the waiting list began to decline, to give any indication that every passenger may get a seat, the third day coach and the third sleeping car were removed from the "train consist", and this game was skilfully played until the needed evidence to show a falling-off in passenger traffic came forth—the patrons actually being driven away through apparent neglect and poor service—and then a reduction in the number of trains per week immediately followed.

Having served on a joint union committee—and, by the way, that word "joint" is spelled j-o-i-n-t, not g-i-a-n-t—which was made up of representatives of the nine or ten standard railroad labour unions in Newfoundland to oppose the reduction in the number of daily passenger trains across the province and making mainland connections, I shared the distinction with the others of being sarcastically referred to as "protectors of jobs" for our memberships and creating additional expense. "Job protectors" was a dirty title in those days, but in today's world a more deserving appellation would be "heroes."

I regret to say we received very little outside support for our endeavours to preserve the continuation of a daily passenger train service across the province of Newfoundland. Those Newfoundlanders who could render some worthwhile assistance were flying high by air at the time and did not have any spare time, preferring to utilize the time they had on producing their adverse writings and local ridicule.

Those whose assignment it was to execute what we may call Phase One—abandonment of Newfoundland's passenger train service—must be feeling exceedingly happy with the introduction of the fashionable and attractive name "road cruiser service," commonly referred to as a "bus service."

One may almost be prompted at this juncture to wonder how the purchase of the buses and the disposal of Newfoundland's rail passenger car equipment were transacted. Were the buses purchased through tender? Was the passenger car equipment advertised and disposed of to the highest bidder? Now this question raises its ugly head: From where, or from whom, did the proposal to abandon the rail passenger system and substitute a bus system in the province of Newfoundland originate? It was common knowledge that a deficit had been accumulating over the years under Newfoundland Railway administration, and was thus far continuing. It may be safe to suggest that this continuing deficit was a strong reason for consideration of abandonment of the rail passenger service, but who was to take care of the deficit which may follow a bus service operation? Surely it was not someone's absurd idea, in order to absolve the Canadian National Railways and/or the Government of Canada, that the puzzle be juggled in such a manner as to allow one or the other to place the taxpayers of the province of Newfoundland in the ridiculous, despicable, unacceptable and discriminatory position of having to pick up the tab.

I wish at this juncture to refer to the struggle which was experienced during preparation of the contents of the ballot to be used in the 1949 referendum—responsible government, commission government. The long and bitter struggle as to whether or not union with Canada should be given a ringside seat created some warm exchanges. Then too, economic union with the United States was also receiving no mean attention for a place on the ballot, and the United States' evaluation of Newfoundland's geographical position, guarding the gateway to the St. Lawrence River and the Great Lakes as it does, was not going unnoticed. At one point in the conflict it was found necessary for the advocates of confederation to term economic union with the United States as "comic union," Some Newfoundlanders now are beginning to wonder if Newfoundland did not end up with "comic union" after all.

● (1500)

Subsequent to the abandonment of Newfoundland's rail passenger service, Phase Two, the elimination of rail freight services in the province of Newfoundland, began to work off its growing pains and swing into second gear. The situation appears to be that no one knows exactly what is transpiring, notwithstanding the efforts of union officials to pry information from railway management pertaining to the jobs of the men they represent and the service the people are to receive. Only quite recently one railway union officer, General Chairman Butt of the Transporation-Communications Employees Union, formerly the Order of Railroad Telgraphers, gave some vent to the frustration he is experiencing, but at the same time stated he could not lay any blame with local railway officials for the lack of information because they were unable to secure it for themselves. No doubt the push-button experts only release sufficient information to keep the multitude relaxed. While it seems there never has been much open conflict, neither has there been an honest release of information and cooperation between management and unions.

In General Chairman Butt's comment recently in the *Evening Telegram,* he makes mention, among other things, of a reduction in, and/or elimination of, 21 freight train runs over a given period. This information indicates to me, at least, that the so-called Phase Two delaying service tactics are slowly but surely bearing fruit, but CN's public relations officer counters by saying there is a reduction in traffic movement but the lay-offs are just temporary.

Here is an example of what I am endeavouring to get across to you, honourable senators, in respect of Phase Two. Beginning some two years ago, on July 8, 1974, a shipment consisting of 14 cartons of merchandise was accepted at Toronto, Ontario, destined for an eastern Newfoundland railroad point. It arrived on August 26, or 49 days later. A second shipment from Toronto on July 17, 1974, arrived at an eastern Newfoundland railroad point on August 28, or 42 days later. Of a third shipment from Toronto on September 4, 35 cartons of merchandise, approximately half or 18 cartons, arrived at its eastern Newfoundland railroad point on October 2, and the balance, 17 cartons, arrived at its destination on October 19.

Now for a brief run-down of west-moving traffic—that is to say, from St. John's to and between Port aux Basques. L.C.L. (less than carload) and express shipments from St. John's to, say, points such as Port Blandford, Alexander Bay, Gambo and Glenwood are moved from St. John's to Grand Falls, 275 miles, unloaded from railroad cars at Grand Falls and loaded on CNR trucks for distribution over the trans-Canada highway, in a reverse movement of approximately 120 miles. It takes a period of approximately

one week to dispatch goods a couple of hundred miles. With this kind of service, how does Canadian National Railways expect to keep the old, and solicit new, business? There is another situation that causes frustration between railway patrons and station employees, and that is the arrival of goods without bills of lading and/or the arrival of bills of lading without the goods.

In addition to the aforementioned trivial matters, patrons of Canadian National Railways, Newfoundland Services, were subjected to an overcharge, to the tune of millions of dollars, for three to five years, due to increased freight charges, through a so-called oversight of not receiving the benefit of the Maritime Freight Rates Act. I wonder if there were ever any refunds, and who received them.

Not only are the shortcomings of the Newfoundland Road Cruiser Service now beginning to emerge, but the revenue needed to satisfy the creditors is failing to come forth. Canadian National Railways has, I presume, turned to the government for financing of the deficit in its passenger service in accordance with the Railway Act, just as it would with respect to its rail passenger service operations on the remainder of the system. That remainder embraces all other Canadian provinces, with the exception now, I presume, of Prince Edward Island. The government has declined to grant financial assistance, as this assistance only applies to rail passenger equipment, and the Supreme Court of Canada has so ruled.

Newfoundland's passenger train equipment has been confiscated. Road cruiser or bus service equipment has been forced upon Newfoundland. Canadian National Railways or the Canadian Government anticipates passing the buck in such a way that the bus passengers will in time absorb the deficit, notwithstanding the fact that the people of Newfoundland are the highest taxed people in all of Canada, and, in addition, pay the highest bus fares. This apparent lack of concern for the needs of the people of the province is beginning to foster contempt, not only for Canadian National Railways but also for government as well. Such lack of concern is the primary reason for the abandonment of our rail passenger train service. Newfoundland is now left without any rail passenger equipment, a depreciating road cruiser supply, an apparent lack of desire to handle less than carload freight shipments, and one great big need to increase passenger rates to save Canadian National Railways from a dilemma conceived by its own lack of interest and knowledge of railroad and steamship operations in Newfoundland.

Honourable senators, I wish to call your attention to that part of the Terms of Union which, in my humble opinion, reinforces the belief instilled in us by Term 31. I refer to paragraph (2) of Term 32, which reads as follows:

> For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through-traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic.

Paragraph (3) of Term 32 is sufficient in itself to bring moral pressure, if not legal pressure, on the government to restore passenger rail service. The contention is that Canada still generally provides a rail passenger service in all other provinces with the exception of the other island province, Prince Edward Island.

Another of the Terms of Union which reinforces the belief instilled in us by Term 31 is Term 36, which reads:

> Without prejudice to the legislative authority of the Parliament of Canada under the British North America Acts 1867 to 1946, any works, property or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada.

It is common knowledge now that Canadian National Railways has sought and received permission to increase bus fares in Newfoundland to the tune of 30 per cent. In view of Term 36, part of which reads, "any works, property or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada," I am of the opinion, together with many other Newfoundlanders, that at this time the people of Newfoundland should be enjoying a reasonably up-to-date passenger rail service, with feeder line bus services in operation from off-line points operated by private carriers giving service to the people.

● (1510)

In an earlier speech in this chamber, I proposed that the stretch of water extending from Port aux Basques, Newfoundland, to North Sydney, Nova Scotia, be considered, for more reasons than one, an extension of Canadian National Railways and the trans-Canada highway. It would provide free movement among and between all provinces, and wipe out the deterrent that now applies to Prince Edward Island and Newfoundland—pay your way or stay at home. It may not be too late, even at this late date, to work out a plan suitable to all interested parties, and to the people who are expecting some recognition in their transportation needs, which will keep Canadian National Railways off the highway and out of competition with private operators.

With a plan of this kind, at this stage, practically out of the picture, the only thing now which may help to heal the chasm which has been allowed to open would be the construction of a four-lane highway extending (a) from Port aux Basques to Deer Lake, (b) from Grand Falls to Gander, and (c) from Clarenville to St. John's, and a well maintained two-lane highway where the four-lane service is not immediately available. This may sound like a large order entailing, as it no doubt will, a large layout of money, but indifference, neglect and lack of knowledge of Newfoundland's actual requirements commands a price, and that price could very well mean the restoration of confidence and goodwill which seem to be going by the wayside.

I wish to reiterate, in no unmistakable terms, that the greater number of people in the province of Newfoundland are diametrically opposed to any increase in bus fares and ferry rates on the following grounds:

> (a) Cabot Strait should be designated a continuation of Canadian National Railways and the trans-Canada highway;
>
> (b) They are now paying the highest bus fares in Canada; and
>
> (c) They are already the highest taxed people in Canada.

The application for bus fare increases has been made by Canadian National Railways to the Newfoundland Public

Utilities Commission. I submit with respect, honourable senators, that the provincial utilities commission has no jurisdiction in this matter in view of Term 36, which reads:

> Without prejudice to the legislative authority of the Parliament of Canada under the British North America Acts 1867 to 1946, any works, property or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada.

My contention in this respect is further supported by Paragraph (2) of Term 32, which reads:

> For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through-traffic moving between North Sydney and Port aux Basques will be treated as all-rail traffic.

It has always been my belief and understanding that one of the many roles of the Senate is to protect and defend the rights of the minorities, whether they be people or provinces. Here we have the two smaller provinces of Canada, Prince Edward Island and Newfoundland, crying out for that protection and defence right now. Therefore, I join with and support Senator Bonnell and other senators in their suggestion that this inquiry should be referred to the Standing Senate Committee on Transportation and Communications for further study and exploration.

In conclusion, I have one suggestion for the Transportation and Communications Committee, and it is that, among other matters, they give some thought to submitting a recommendation to the government that early steps be taken to give back the operation of railways in Canada, and in Newfoundland in particular, to railwaymen, thereby taking it out of the control of the campus push-button experts.

I thank you, honourable senators, for bearing with me for the past 20 minutes.

On motion of Senator Macdonald, debate adjourned.

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—MOTION FOR ADOPTION OF REPORT OF COMMITTEE—MOTION IN AMENDMENT NEGATIVED AND REPORT ADOPTED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Laird, seconded by the Honourable Senator Petten, for the adoption of the Report of the Standing Committee on Internal Economy, Budgets and Administration to which was referred the subject-matter of a motion containing proposed regulations entitled: "Regulations of the Senate respecting attendance of Senators at sittings of the Senate and deductions to be made from the sessional allowance", and
>
> On the motion in amendment thereto of the Honourable Senator Côté, P.C., seconded by the Honourable Senator Robichaud, P.C., that the Report be not now adopted, but that it be referred back to the Committee with instructions to study the possibility of modifying the formula proposed in the Report to record and control the absences of Senators and of adopting a procedure similar to that of the other House in this regard.—(*Honourable Senator Petten*).

Senator Petten: Honourable senators, I defer to Senator Laird.

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

Hon. Senators: Agreed.

Hon. Keith Laird: Honourable senators, we have now had ample opportunity to think about this Order. Therefore, I respectfully suggest that we reject the amendment, and then adopt the report.

We do not need the amendment, for the simple reason that the Standing Committee on Internal Economy, Budgets and Administration is willing to consider any suggestion regarding this problem from any member of this house at any time. Therefore, there is no object in referring the report back to the committee.

Secondly, it should not be forgotten that this report results from a motion made by Senator Godfrey, which suggested an increase in the monetary penalty for absence. After full consideration the committee, I remind you, decided that was not the solution to the problem; that the correct solution is what is contained in the report, namely, when a senator writes an excuse for absence on public business, he or she should state what the public business is. It is as simple as that, and no problem should arise.

Finally, the report also takes the matter out of the hands of any members of the staff, who really should not have to shoulder that responsibility. It puts the final responsibility on the Standing Committee on Internal Economy, Budgets and Administration, which means that every one of you, my colleagues, is put on an equal basis. Everyone is treated equally, and is judged by his or her peers.

Therefore, it is my respectful suggestion that we reject the amendment, and adopt the report.

The Hon. the Speaker: It is moved by the Honourable Senator Laird, seconded by the Honourable Senator Petten, that the report of the Standing Committee on Internal Economy, Budgets and Administration be now adopted.

In amendment, it is moved by the Honourable Senator Côté, P.C., seconded by the Honourable Senator Robichaud, P.C., that the report be not now adopted, but that it be referred back to the committee with instructions to study the possibility of modifying the formula proposed in the report to record and control the absences of senators and of adopting a procedure similar to that of the other house in this regard.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

An Hon. Senator: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion in amendment will please say "yea".

An Hon. Senator: Yea.

The Hon. the Speaker: Those who are against the motion in amendment will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it, and I declare the amendment lost. Shall the main motion carry?

Senator Greene: On division.

Motion agreed to and report adopted.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, May 13, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Langlois tabled:

Copies of Ordinances, Chapters 1 to 14 inclusive, passed by the Council of the Northwest Territories during its 1974 First (51 consecutive) Session and assented to February 8, 1974, pursuant to section 16(1) of the Northwest Territories Act, Chapter N-22, R.S.C., 1970, together with copy of Order in Council P.C. 1976-906, dated April 13, 1976.

Copy of Ordinance passed by the Council of the Yukon Territory at its 1976 First Session and assented to March 1, 1976, pursuant to section 20(1) of the Yukon Act, Chapter Y-2, R.S.C., 1970, together with copy of Order in Council P.C. 1976-847, dated April 6, 1976.

National Capital Fund Budget of the National Capital Commission for the fiscal year ended March 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, as approved by Order in Council P.C. 1976-996, dated April 27, 1976.

INTERNAL ECONOMY

COMMITTEE ON NATIONAL FINANCE—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Standing Committee on National Finance for the proposed expenditures of the said committee with regard to its examination and consideration of such legislation and other matters as may be referred to it, authorized by the Senate on December 5, 1974.

COMMITTEE ON BANKING, TRADE AND COMMERCE—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Banking, Trade and Commerce for the proposed expenditures of the said committee for the purposes of its examination and consideration of such legislation and other matters as may be referred to it, authorized by the Senate on November 19, 1975.

COMMITTEE ON SCIENCE POLICY—SUPPLEMENTARY BUDGET TABLED

Senator Laird, Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, tabled the committee's report approving the supplementary budget presented to it by the Chairman of the Special Senate Committee on Science Policy with respect to its consideration of Canadian Government and other expenditures on scientific activities and matters related thereto, as authorized by the Senate on July 24, 1975.

CRIMINAL LAW

INTERIM REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TABLED AND PRINTED AS AN APPENDIX

Senator Goldenberg: Honourable senators, I have the honour to table an interim report of the Standing Senate Committee on Legal and Constitutional Affairs on the subject matter of Bill C-83, for the better protection of Canadian society against perpetrators of violent and other crimes.

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

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

Hon. Senators: Agreed.

(*For text of report see appendix, pp. 2127-2128*)

Senator Goldenberg: With the permission of honourable senators, I should like to make a brief explanation of the report I have just tabled.

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

Hon. Senators: Agreed.

Senator Goldenberg: This is an interim report. The committee did not make a clause-by-clause study of the bill. We have deferred that until the bill comes before the committee after passing the other house, if it is passed in the other house. The report does not make specific recommendations. It deals with a number of principal points raised, and the committee recommends reconsideration of some of the clauses in the bill with suggested changes.

The report, I believe, speaks for itself, and I will not take the time of the Senate to summarize the views of the committee on the particular points.

Senator Connolly (Ottawa West): May I ask if it is the intention of the chairman or of the committee to refer the report to a committee of the other place which might be studying the bill in detail?

Senator Goldenberg: In reply to that question, the Minister of Justice has asked me to make certain that he receives a copy of this report immediately for consideration by himself and the committee of the other place. That was one of the main reasons why the committee made an interim report.

Senator Molson: Does the honourable senator propose to move that the report be taken into consideration here at a future date, or does he feel that tabling is sufficient?

Senator Goldenberg: I feel that tabling is sufficient. As I said, it is an interim report. If honourable senators want it to be considered, it could be done. In my view it would be more appropriate to do that when and if we report on the bill as such, after a clause-by-clause study when it is before the Senate.

Senator Molson: If I am not mistaken, there is nothing that precludes it from being taken into consideration.

Senator Goldenberg: Not at all.

● (1410)

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting on Wednesday next, May 19, 1976, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators have heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, May 18, 1976, at 8 o'clock in the evening.

As honourable senators will recall, in moving the adjournment of the Senate on Thursday last, I indicated it would probably be necessary for the Senate to sit on Monday evening of next week. However, I have now been informed that no bills will likely reach the Senate from the other place either this week or early next week. That being so, I think it would be advisable for the Senate to adjourn until Tuesday evening.

In giving my usual brief summary of the work for the coming week, I shall deal first with the committees. On Tuesday the Standing Senate Committee on Foreign Affairs will meet at 9.30 a.m. to consider further Bill C-20, respecting citizenship. The National Finance Committee has scheduled a meeting for 2 p.m. to consider its report on manpower. The Committee on Legal and Constitutional Affairs will hold an *in camera* meeting at 2.30 p.m. on conflict of interest. The Special Joint Committee on the National Capital Region will meet at 3.30 p.m., and the

[Senator Connolly (Ottawa West).]

Standing Joint Committee on Regulations and other Statutory Instruments will meet at 8.30 p.m. on the same day.

On Wednesday the Banking, Trade and Commerce Committee will meet at 9.30 a.m. and again at 2.30 p.m. If Bill C-89, to amend the Anti-Inflation Act, has by then been referred to that committee, it will deal first with it and then proceed to hear witnesses on Bill C-58. The Special Senate Committee on Science Policy will meet at 3.30 p.m. on Wednesday.

On Thursday the Banking, Trade and Commerce Committee will meet at 9.30 a.m. to hear further witnesses on Bill C-58. The National Finance Committee will meet at the same time to consider the main estimates. The Standing Joint Committee on Regulations and other Statutory Instruments has scheduled a meeting for 11 a.m., and the Special Joint Committee on the National Capital Region will meet at 3.30 p.m. on the same date.

In the Senate we shall continue with second reading debate on Bill C-89, to amend the Anti-Inflation Act; Bill S-34, to amend the Aeronautics Act; Bill S-35, to amend an act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act, and other items on the Order Paper.

Senator Grosart: Honourable senators, I wonder if I might ask the Deputy Leader of the Government a question. Did I understand him to say that a committee will sit at 8.30 p.m. on Tuesday?

Senator Langlois: Yes, the Standing Joint Committee on Regulations and other Statutory Instruments has scheduled a meeting for 8.30 p.m. on Tuesday.

Senator Grosart: Does that committee have permission to sit while the Senate is sitting?

Senator Langlois: Since it is a joint committee, I do not think permission is required.

Senator Forsey: Honourable senators, if I may venture—I fear it is a transgression of the rules—if I may venture, I can assure the Honourable the Acting Leader of the Opposition that in fact the committee has that power. It was settled a long time ago. There is no doubt about it at all.

Senator Langlois: It is a joint committee.

Senator Grosart: Honourable senators, perhaps I can point out that we seem to be in a state of utter confusion once again about this so-called block system of committees. My understanding was that there was a general understanding that we would sit on Monday nights. I am not necessarily saying that we on this side are in favour of that, but now we are in the position where certain committees have elected to take Tuesday as their day of sitting. This would apply, of course, to the Standing Senate Committee on Foreign Affairs, which now meets at 9.30 on Tuesday morning, clearly on the understanding that the Senate would be sitting on Monday, which was part of the background of this new arrangement. It seems to me that we are now back to an utter *ad hoc* set of decisions as to whether we will sit on Monday night or Tuesday night, thus apparently destroying the whole concept to which so much time was given by the committee chaired by Senator Bourget.

I recall that the Leader of the Opposition made the suggestion that it would make more sense for us to have a

standard arrangement by which the Senate would meet on Tuesday morning. This would suit the convenience of many senators, and would get us over this impossible position where, as in this case, a committee has given up its right—if that is the proper word—to sit on Thursday or some other day and has decided to sit every Tuesday at 9.30 on the understanding that senators would be here because they would have been called for a Senate sitting on Monday night.

I would ask the Deputy Leader of the Government if there is some intention to standardize this. I quite appreciate that there are serious practical objections to the Senate always sitting on Monday night, and I would ask him if consideration will be given to the suggestion of the Leader of the Opposition that Tuesday morning would be a much more sensible time, and have the matter standardized so that committees would be able to make their arrangements on a much better basis than at present. I do not know how many senators will be here for the meeting of the Foreign Affairs Committee or any other committee sitting early that day.

I would also call attention to the fact that we are now back into the old bad habit of permitting committees to sit while the Senate is sitting. For the next two weeks the Standing Senate Committee on Banking, Trade and Commerce has requested, quite understandably, permission to sit on Wednesday while the Senate is sitting. We will also have a joint committee sitting on Tuesday night. This again raises the problem of whether senators will not be faced with the decision whether to attend a committee or be in their places in the Senate. I hope these new changes, which appear to have been made on a completely *ad hoc* basis, will not destroy the whole system that was set up after so much care and consideration by the special committee.

Senator Argue: Honourable senators, I do not necessarily object to the principle that Senator Grosart has enunciated, but I do think we can get ourselves into a straitjacket. If this committee feels it needs to meet at 8.30 o'clock next Tuesday night and the Senate feels it should meet at the same time, it seems to me that with our membership of that joint committee, I believe of some six senators, there is really no reason why we cannot man the Senate chamber and man that committee as well. I know it is fine to have a block system, and it is all right to get things as orderly as possible, but sometimes we have to do things that are practical, and if this is a practical thing I would think it should be done.

Senator Langlois: Honourable senators, perhaps I might be allowed to answer this question to the best of my ability. As the honourable Acting Leader of the Opposition knows, I have nothing to do with co-ordinating committee sittings. There is a subcommittee in charge of that, composed of Senators Bourget, Macdonald, Cook and Asselin.

● (1420)

They have been doing a very good job, and I do not think I should interfere with what they have been doing. I wish to remark to my honourable friend that the Standing Joint Committee on Regulations and other Statutory Instruments has the power to sit when the Senate is sitting. This committee does not come under the jurisdiction or competence of our co-ordinating committee. Since the Committee on Regulations and other Statutory Instruments is a joint committee, there is very little to say about its sittings. I believe Senator Forsey will support me in this respect. Therefore, I do not think that I can add anything further with respect to the Monday night sittings.

We had Monday night sittings on a trial basis for about a month and a half before the Easter recess. We have come to the conclusion that we should carry on now with Monday night sittings until the end of the session. There will be exceptions to that. We have no legislation coming from the other place for next Monday, and we have been able to arrange our committee sittings within the three days that the Senate will be sitting next week. I do not think we should come back Monday night when we have nothing new coming before the Senate.

Such an exception will take place again the following week because Monday, the 24th of May, is the Queen's birthday. The House of Commons and the Senate will not be sitting that day, and we will have to schedule our committee work for Tuesday, Wednesday and Thursday of that week. From then on, as far as possible we will stick to the plan of sitting from Monday to Thursday each week if the work before the Senate so requires.

If Senator Bourget, who is more knowledgeable than I about the workings of the so-called block system, would care to add a further explantion, he may do so and I would appreciate very much his doing so.

Senator Bourget: Honourable senators, as Senator Grosart said, there is some confusion about the sittings of committees. I quite agree with him. This unfortunate situation has arisen because many bills are coming to us at the same time.

The day before yesterday the chairman of the Foreign Affairs Committee told me that he was being pressed to start the committee's study on Bill C-20. I tried to arrange matters to accommodate him, and I told him he probably could sit on Tuesday next. I consulted the Acting Director of Committees and was informed that only one other committee was sitting on that day and there would be no conflict in membership.

It should also be realized that when Senator Cook, Senator Macdonald and Senator Asselin worked on the block system, it was with the understanding that we would be sitting Monday evenings. But next week our first sitting will be Tuesday evening. So what am I to do? There are only three sitting days, and I can't accommodate all committee chairmen. It just so happens, as I said, that sometimes too many bills come to us at once. I am trying to do my best, but if someone else can do better, okay, I will give him the job.

Senator Grosart was right in stating that there is some confusion, but I hope that with the cooperation of all committee chairmen we will be able to solve the problem. As far as the two joint committees are concerned—the Joint Committee on the National Capital Region and the Joint Committee on Regulations and other Statutory Instruments—we cannot do much because we have to work with the other place.

Once again, I just ask for the cooperation of all committee chairmen in trying to solve the problem of scheduling committee hearings.

Senator Forsey: Honourable senators, if I may just add a footnote to what the Deputy Leader of the Government and Senator Bourget have said: as far as the committee on Regulations and other Statutory Instruments is concerned, this is, as has been pointed out, a joint committee and we have to consider to some extent the arrangements in the other place, which also has a block system.

It has been the practice now for some time for the Standing Joint Committee on Regulations and other Statutory Instruments to meet regularly every Tuesday evening at 8.30. There is nothing novel about this. It has been quite standard and it has been provided for by a long-standing report adopted by the Senate that we have power to sit during the time when the Senate is sitting.

Senator Beaubien: Honourable senators, I should just like to tell you what I told the Acting Leader of the Opposition a moment ago. It is all very well for senators who will be here Monday night in any event to suggest sitting Tuesday morning, but what of those senators who live far away? I am not complaining so much for myself, because after all I live in Montreal, which is not all that far, but there are many senators whose homes are a long distance from Ottawa.

Of course, if a senator has reached the point where he does not do anything in his office any more anyway, and has then moved from some other place in Canada 3,000 miles away and lives here because the tax advantages are better, and all that sort of thing, that is fine. To such people it does not matter. Senators who live in Ottawa can come in at any time. However, in my opinion, unless there is something to do here I see no sense in having a sitting every second Tuesday morning.

As honourable senators are aware, we have had nothing special to do in the house in the last few weeks. There has been no heavy amount of work to handle, although we have had quite a bit of committee work. I think some thought should be given to the matter before a decision is made to change the practice of sitting Tuesday night and Wednesday and Thursday afternoons. If it is necessary to come at other times, we will come. There is no question about that—unless we write in, of course, to say that we are away on public business!

Senator Macdonald: I think it is time you took your place, Senator Beaubien.

Senator Beaubien: No, I think I will just go.

Some Hon. Senators: Hear, hear!

Senator Grosart: Honourable senators, if I may, I will just say that I merely asked if consideration had been given to the suggestion made by the Leader of the Opposition.

Senator Langlois: We always do.

Senator Rowe: Honourable senators, I have just a few points to make relating to Senator Beaubien's remarks. As Senator Beaubien intimated, there are two classes of senators: those who live within reasonable travelling distance of this chamber and those who do not. The former would include Toronto, Montreal and Quebec as well as this general area, while the latter would include those of us who live at the periphery, or the extreme ends of the country.

[Senator Bourget.]

With summer and the tourist season coming on we will be faced with difficulties in making reservations. Indeed, I had a good example of that only today when making a reservation at the Chateau Laurier for next Tuesday. I was told that everything was booked up and that no room was available. When I said, "Are you telling me that, after 25 years of staying here periodically and for the last four or five years living here off and on, there is no room available for me?" I was dealing with a new clerk and as it happened I was able to book my room. But that experience is indicative of the situation which will face us in respect of both reserving rooms in hotels and, more particularly, travelling by aircraft. It should be remembered that during the tourist season, accommodation and transportation are often booked up two to three weeks ahead.

Another point I should like to make, and I hope I am not out of order in doing so, is that I agree entirely with what Senator Beaubien had to say about Monday night sittings. I do not see the necessity or the relevancy of them. I think the needs of committees can be met without Monday night sittings. For example, I am sure that if the Foreign Affairs Committee were to sit on a Tuesday afternoon it would have a quorum, even though the first sitting of the Senate chamber was not until Tuesday evening. Most senators on the Foreign Affairs Committee who would be coming in for the Tuesday night sitting could be here for a Tuesday afternoon meeting of this committee, of which I happen to be a member. I think the same could be said about the other committees. We should not have what is in my view a totally unnecessary Monday night sitting, to the great inconvenience of many senators, particularly those living in British Columbia or Newfoundland or Nova Scotia.

● (1430)

Motion agreed to.

[*Translation*]

Senator Asselin: I would like to put a question to the Deputy Leader of the Government. Since the current session will possibly end in the near future, namely at the end of June, in order to help the opposition in its work, we would like to know the government's priorities in terms to matters to be dealt with by Parliament before the end of the session. Could the Deputy Leader of the Government supply us next week with a list to help us in our work?

Senator Langlois: Honourable senators, I am grateful to Senator Asselin for leaving me at least until next week to answer the question. I certainly will try to get an answer at the beginning of next week.

[*English*]

FOREIGN AFFAIRS

CANADIAN DEFENCE SPENDING—REMARKS BY UNITED STATES AMBASSADOR TO CANADA—QUESTION

Senator Forsey: Honourable senators, I have a question for the Acting Leader of the Government with reference to a report in today's *Globe and Mail* of a speech by the American ambassador.

It would appear that General Norstad, of happy memory, now has a successor. The report says—and this is leading up to the question I shall ask—that the ambassador said that a satisfactory level of Canadian military spending has become critical to the defence of North America, adding

that the United States is having difficulty footing the bills so that it can match aggressive Russian military spending in Europe and the North Atlantic. He also said that one of the major irritants in Canadian-U.S. relations has developed because many Americans believe that Canada gives too low a priority to defence spending. Then comes a direct quotation from the ambassador:

> The United States is close to the margin point when it comes to mounting an effective defence over Europe and the North Atlantic . . . So Canadian contributions to this effort have now become critical.

The report adds:

> Mr. Enders said he has been heartened by Canada's decision to increase its defence spending by 12 per cent annually over the next 10 years.

Then the direct quotation of the ambassador's words resumes:

> Ottawa, by deciding to purchase long-range patrol planes, will improve our defence capability in the North Atlantic and I anticipate that the Canadian government will proceed soon to other re-equipment decisions.

Honourable senators, I should like to ask the Acting Leader of the Government whether it is the intention of the government to make any comment on what seems to me to be a gross breach of international decorum by the United States ambassador in Canada in the expressions I have just quoted. I strongly suspect that if the Canadian ambassador in Washington undertook to make a speech down there, telling the Americans that they were spending too much on defence, the roof would blow off, and his recall would be asked for.

I wonder if the Acting Leader of the Government can give us any indication of the government's position on this very dubious statement—to put it mildly—by the American ambassador?

Senator Langlois: Honourable senators, as I am a very casual reader of the *Globe and Mail*, I have not read the article in question, and since the question is to some degree argumentative, I hope the honourable senator will give me the opportunity to read the article and to digest this lengthy question. I hope also that my honourable friend will give me the time to get the necessary reaction from governmental authorities before I answer his question. I am therefore taking the question as notice.

Senator Forsey: Thank you very much.

[*Translation*]

INTERNAL ECONOMY

REGULATIONS RESPECTING ATTENDANCE OF SENATORS—ADOPTION OF REPORT OF COMMITTEE—QUESTION

Senator Côté: Honourable senators, I have a question for the deputy government leader. Would it be possible to organize some procedure so that when a senator has a motion, or an amendment to a motion, standing in his name on the order of business, he be informed in advance when that motion is to be disposed of?

Senator Langlois: Honourable senators, it is very difficult to answer that question categorically. If my honourable friend is asking us, since we are responsible for preparing the order of business of the house, to ascertain in advance when a senator has an item standing in his name on the Order Paper if that senator will be present when his motion is called, then I think that the business of the Senate would be enormously perturbed, if not made difficult to carry out, because I think it is up to the senator who has a motion on the Order Paper to make sure that he is here when his item may be discussed in this house. To ask the leader or deputy leader or any other person in charge of preparing the Orders of the Day of the Senate to ascertain in advance if such senator will be here, is nearly impossible, and would make the job excessively difficult.

I will try to see if it would be possible to do something to accommodate my honourable friend but right now I think he has very little hope of it being possible.

Senator Côté: The thing is that a motion standing in my name was voted on yesterday. I was present in this House for the greater part of the debates. However, I had to leave and almost immediately afterwards a vote was taken on a motion standing in my name. I feel I should have been told in advance.

Senator Langlois: I regret what happened to my honourable friend yesterday. However, I think it is rather difficult to prevent such things. I do not know if the honourable senator looked at the Orders of the Day, what we call the "scroll", but had he done so he would have seen that that motion would be called that day. I do not think anyone else can be blamed for the fact that Senator Côté was not present when that motion was called.

Senator Côté: When a motion is called some one always says "Stand, stand" when the honourable senator concerned is not present.

[*English*]

Senator Argue: Honourable senators, I might say with reference to the point which is being discussed that I had stated to the Whip that Senator Hays wished to have this motion adjourned in his name, because he wished to speak on it. Now, I cannot speak for Senator Hays; he has to speak for himself. But I was under the impression that this motion would not be dealt with until at least Senator Hays was apprised of its coming to a vote.

Senator Petten: Honourable senators, to answer the question specifically, I had spoken to Senator Hays, not about this particular motion but he had seen me that day and the day before and he never mentioned it to me in any way.

Senator Argue: I understood that that was his intention.

Senator Petten: Well, he never indicated to me that he wished to speak.

Senator Argue: I am sure he can speak for himself, but that was my understanding.

ANTI-INFLATION ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Stanbury, seconded by the Honourable Senator Greene, P.C., for the second reading of the Bill

C-89, intituled: "An Act to amend the Anti-Inflation Act".—(*Honourable Senator Asselin, P.C.*).

[*Translation*]

Senator Asselin: Honourable senators, I had intended to take part in today's debate. I know that several speakers have already done so. Unfortunately, I was unable to prepare myself adequately for a very important reason, the fact that Senator Flynn and I accompanied the future Prime Minister of Canada on his visit to Quebec City. I was therefore unable to prepare my speech for the Senate today. With leave, I move that the debate—

Senator Denis: Was it Mr. Trudeau?

Senator Asselin: No, it was not Mr. Trudeau, but the future Prime Minister of Canada. You do not know him? You soon will.

Senator Denis: Who was it?

Senator Asselin: It was Joe Clark.

With leave, I shall ask for the adjournment of this debate. Does Senator Côté wish to ask a question?

Senator Côté: Why do you laugh when you say that it was Joe Clark?

Senator Asselin: I say that Joe Clark is the future Prime Minister of Canada, and I was very happy to accompany him to Quebec City.

Therefore, I ask that this order stand until next Tuesday night.

● (1440)

Order stands.

[*English*]

AERONAUTICS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Andrew Thompson moved the second reading of Bill S-34, to amend the Aeronautics Act.

He said: Honourable senators, Bill S-34 proposes an amendment to Part V of the Aeronautics Act with respect to the provision of security measures for civil aircraft of foreign air carriers operating to and from airports in Canada. By way of background I would remind honourable senators that on July 27, 1973 the Aeronautics Act was amended by Bill C-128, to provide for security measures to be taken at airports, including the search of persons and property for the protection of passengers, crews and aircraft. Regulations were enacted on April 2, 1974 imposing the application of security measures on owners and operators of aircraft registered in Canada. I would emphasize those words "the application of security measures on owners and operators of aircraft registered in Canada".

Allow me to point out that Canada has been among those countries taking a particular interest in national, bilateral and multilateral efforts to combat the serious dangers and inconveniences imposed by acts of unlawful interference with civil aviation. Canada's contributions have been significant to the negotiation, under the auspices of the International Civil Aviation Organization, of three important international conventions, and to which Canada has become a party. These are the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft; the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft; and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. The conventions have not, however, been ratified by more than half of the member nations of the International Civil Aviation Organization.

In view of the world-wide criminal and terrorist activities against international civil aviation, the International Civil Aviation Organization continues to direct its efforts toward the establishment of international standards and recommended practices. On March 22, 1974 the Council of the International Civil Aviation Organization adopted Annex 17 to the Chicago Convention on International Civil Aviation entitled: "Safeguarding International Civil Aviation against Acts of Unlawful Interference". This sets out standards and recommended practices for the protection of civil aviation. Canada has implemented the requirements of Annex 17, but not all countries have done so.

I return now to the principle of the Aeronautics Act, which incorporates Annex 17. It authorizes the Governor in Council to make regulations requiring the owners or operators of aircraft registered in Canada—I wish to emphasize that—the owners or operators of aircraft registered in Canada to establish, maintain and carry out such security measures as may be prescribed by the regulations. Pursuant thereto regulations have been made imposing the obligation of security measures on the owners and operators of aircraft registered in Canada. The act, however, does not authorize regulations which would impose the obligation of establishing and carrying out similar security measures on foreign air carriers operating into and out of airports in Canada.

Under the present wording of the act, security measures in respect of flights by foreign air carriers from airports in Canada can only be established and carried out by the Ministry of Transport. The result is that Canadian air carriers are burdened with the expense of establishing and carrying out security measures, whereas the Ministry of Transport must bear the burden of establishing, and the expense of carrying out, security measures in respect of passengers departing from Canada with foreign air carriers. This is discriminatory.

In addition, the absence of security measures by foreign air carriers transporting passengers into airports in Canada is of considerable importance, as many European countries which do not subscribe to Annex 17 do not screen passengers or goods leaving by aircraft. The coming Olympic Games and other international events, including Habitat, to be held in Canada point up the necessity of requiring foreign air carriers operating to airports in Canada to adopt a security program in respect of all passengers and goods intended to be carried into Canada.

This brings me to the amendments to section 5(1). They clarify the authority to require all owners and operators of aircraft, whether registered in Canada or otherwise, to comply with security regulations in respect of flights into or out of Canadian airports. The foreign air carriers would be required to use security measures equivalent to those now followed by Canadian air carriers. The operators of Canadian registered aircraft are now required to comply with security regulations at their own expense, whereas

foreign air carriers are not so required. The amendments would correct that situation.

The amendments also authorize the department to institute on its own security measures at airports applicable to all carriers, both domestic and foreign. This would enable the department to impose charges for any such security services provided. If this service had to be provided without charge to the carriers the cost to the department is estimated at approximately $200,000 annually. This latter provision, however, would only be used on the failure, particularly of foreign air carriers, to adopt a security system equivalent to that used by Canadian air carriers.

The amendments also make it an offence for foreign registered aircraft to land at an airport in Canada without being subject to security measures equivalent to those followed by Canadian operators. This provision will provide a measure of enforcement. Perhaps I should also add that it is the intention and hope of the department that the responsible foreign air carriers will comply with this without need of any type of enforcement, and their approach will be that of consulting with the foreign air carriers.

I should also add that approximately six months ago the United States introduced similar legislation. I notice that Senator Forsey is not here; he might feel, perhaps, that that is not an argument which should be used in support of a measure such as this. However, there is obviously need for this type of legislation in Canada, particularly in view of the anxiety there is in connection with international events in Canada, such as Habitat and the Olympic Games.

● (1450)

Senator Buckwold: I wonder if I might ask the honourable senator a question. Do other countries that prescribe to the arrangements, and where thorough security measures are taken, have similar enactments for Canadian airlines? When Air Canada leaves Paris or London, and security is carried out by officials there, is there a charge to Air Canada for that service, such as we would make for foreign airlines under this bill?

Senator Thompson: In some countries they do not have this type of security which we are proposing, and in some they do. One of the problems which our air carriers will have to face is that this type of security will be applied more and more in Europe. The International Civil Aviation Organization has proposed that security measures be enacted by every country. Presumably, there will be a situation where Air Canada will have to pay the same charges as the foreign carriers. But at this point, a number of countries are not imposing the same restriction.

Senator Buckwold: Apart from the United States, are there any countries that are charging Canadian airlines for that service?

Senator Thompson: I understand that the only country which has this type of policy for security at this time is the United States. Other countries, however, would be recovering their security costs through other means, such as higher landing fees and terminal service charges.

Senator McDonald: As I understand it, all security checks on airlines are performed during the boarding process. They are not performed when people are departing from aircraft. Many nations have refused to recognize the conventions signed at Montreal and other cities. How will Canada be assured or guaranteed, in respect of a flight leaving a certain country and coming to Canada—I am not talking about Air Canada, but foreign airlines—that this check will be made, when that particular country has refused in the past to sign international agreements? Will we have our security check force at some foreign airport? How can we be assured that the security check will take place?

Senator Thompson: With regard to signatories to conventions, the Tokyo convention was signed by 81 countries. I asked the experts at the department if that number included most of the major industrialized countries and the major airlines, and they told me that it did. There were 72 signatories to the Hague convention, and 64 to the Montreal convention. So I do not want to give the impression that there is not a trend by industrialized countries to become signatories.

However, in reply to the honourable senator, the very basis of this amendment is in order that the department, through the minister, will have authority to request that the airlines which are coming from other countries should meet ICAO standards of inspection and security requirements. If they do not, if they fall short of that, there are penalties which the department can impose. I should point out that in the United States they are even tougher in that they say to foreign airlines coming in, "If you do not meet these security requirements, and have not signed all the conventions, we may consider negating the air agreement we have with you."

Our people believe that they can work through consultation and negotiation with the foreign airlines and countries concerned. One of the reasons for the delay in the introduction of this bill is that feelers have been put out through the embassies to obtain the reaction of various countries, and I gather that there is now a fairly positive approach. It is felt that we will get cooperation. The responsible airlines, certainly, are deeply concerned about international incidents which cause havoc to the travelling public.

On motion of Senator Macdonald, for Senator Grosart, debate adjourned.

AN ACT TO REPEAL THE PROPRIETARY OR PATENT MEDICINE ACT AND TO AMEND THE TRADE MARKS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Ernest G. Cottreau moved the second reading of Bill S-35, to amend an act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act.

He said: Honourable senators, approximately a year and a half ago, Bill S-9 was introduced in this chamber. That legislation, which received royal assent on April 24, 1975, repealed the Proprietary or Patent Medicine Act effective July 1 of this year.

The legislation now before us seeks to change the date of repeal from July 1, 1976, to April 1, 1977. In addition, it extends the annual licence granted for proprietary medicines for 1976 to April 1, 1977.

During the next few minutes I will outline the various reasons which made it necessary to introduce this bill.

Without going into the Proprietary or Patent Medicine Act and the regulations replacing it under the Food and Drugs Act, permit me to explain the government's policy on self-medication.

As the Honourable Marc Lalonde, Minister of National Health and Welfare, stated in consideration of Bill S-9 in Committee of the Whole in the other place, the government's policy is to recognize the importance of self-medication in the total health care system. Indeed, such a policy is intended to ease the pressure of services on health care professionals.

This objective is currently achieved through the federal legislation in the form of the Proprietary or Patent Medicine Act and its eventual replacement by division 10, the Proprietary Medicine Division under the Food and Drugs Act. The legislation is intended to permit access to products by the general public for the relief of symptoms of minor ailments such as headache or indigestion.

Provincial governments also recognize that such products should be available to the general public. The federal government, based on assurances from deputy ministers' conferences and meetings with provincial officials, has every reason to believe that this policy will continue after the repeal of the Proprietary or Patent Medicine Act.

Most importantly, the government is concerned that the policy I have just outlined be maintained during the transition period from the Proprietary or Patent Medicine Act to proprietary medicine regulations under the Food and Drugs Act. To achieve this, provincial pharmacy legislation must be amended. To date, only two provinces have a mechanism in place which will permit proprietary medicines registered under the Food and Drugs Act to be sold in non-pharmacy outlets.

● (1500)

As I said earlier, consultations between federal and provincial officials indicate that there is every reason to believe that, barring unforeseen circumstances, the necessary legislation will be in place by April 1, 1977.

Perhaps an explanation of the relationship between federal and provincial legislation in respect of drugs would be in order. For that, I refer honourable senators to *House of Commons Debates* of Friday, April 11, 1975, where the Honourable Marc Lalonde put the situation in a nutshell. I quote from page 4730, as follows:

> Now I would like to outline briefly the conditions under which various drug products can be sold, and to indicate the concern of my department that we do not disrupt this established pattern unnecessarily. As hon. members know, prescription drugs can be sold on the authorization of a prescription issued by a practitioner. Non-prescription drugs can be sold without such authorization. By virtue of provincial legislation, prescription drugs and those non-prescription drugs not presently registered under the Proprietary or Patent Medicine Act can be sold only in drug stores or pharmacies. In general, also by virtue of provincial laws, only proprietary medicines presently registered under the Proprietary or Patent Medicine Act are available outside pharmacies. Thus, in a pharmacy one can obtain all types of drugs, while in a non-pharmacy outlet one may obtain only proprietary medicines.

For various reasons, including material shortages and the uncertainty of scheduling of provincial legislation, proprietary medicine manufacturers would be unable to meet the July 1 deadline. In addition, reformulation of products because of the new legislation, as well as additional regulatory requirements under the Food and Drugs Act and regulations thereto, requires additional time to be implemented.

As all honourable senators undoubtedly are aware, the regulations governing proprietary medicines under the Food and Drugs Act were passed last year by the Governor in Council. The Health Protection Branch is now in the process of examining proprietary medicines to see that they are in compliance with the new legislation. I am informed that of the approximately 2,000 proprietary or patent medicines now registered under the Proprietary or Patent Medicine Act, perhaps as few as 600 or 700 will be registered under the new legislation.

In conclusion, I think the main purpose of this legislation is to ensure that there is an appropriate transition period from the Proprietary or Patent Medicine Act to the proprietary medicine regulations under the Food and Drugs Act. I have outlined the various reasons for the government's position to change the date of repeal of the Proprietary or Patent Medicine Act, and I submit that the various related matters surrounding the Proprietary or Patent Medicine Act were thoroughly dealt with during the passage of Bill S-9 through the Senate and the House of Commons last year.

Honourable senators, should this bill receive second reading, I am prepared to move, should it be the wish of the Senate, that it be referred to the appropriate committee, which would be the Standing Senate Committee on Health, Welfare and Science. Personally, I do not see any need for it to be referred to committee.

On motion of Senator Macdonald, for Senator Phillips, debate adjourned.

The Senate adjourned until Tuesday, May 18, at 8 p.m.

APPENDIX

(*See p. 2119*)

CRIMINAL LAW

INTERIM REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Thursday, May 13, 1976

The Standing Senate Committee on Legal and Constitutional Affairs to which was referred the subject matter of Bill C-83, intituled "An Act for the better protection of Canadian society against perpetrators of violent and other crime," has, in obedience to the Order of Reference of Thursday, March 4, 1976, undertaken a preliminary examination of the said subject matter and now presents an interim report as follows:

1. FIREARMS AND OTHER OFFENSIVE WEAPONS
(Clause 3, pages 2-37)

In its preliminary examination of Bill C-83, your Committee notes that the proposed new Part II.1 of the *Criminal Code*, in clause 3 of the Bill, which would replace all the provisions of the *Criminal Code* under the heading "Offensive Weapons", would add to the *Criminal Code* provisions that are regulatory and administrative rather than provisions of a criminal law nature, for example, the establishment of a licensing system and provisions relating to the carriage, handling and storage of firearms. Your Committee questions whether such provisions properly belong in the *Criminal Code*.

In this connection, your Committee draws attention to the following statement in a recent report, issued by the Law Reform Commission of Canada, entitled "Our Criminal Law":

> "If criminal law's function is to reaffirm fundamental values, then it must concern itself with "real crimes" only and not with the plethora of "regulatory offences" found throughout our laws. Our Criminal Code should contain only such acts as are not only punishable but also wrong—acts contravening fundamental values. All other offences must remain outside the Code.
>
> Nor is this classification a mere formality. It is not just calling some offences "crimes" and putting them in the Code and calling others "violations" or some other name and putting them somewhere else. Rather, it means dealing with the two under two distinct régimes. Real crimes need a criminal régime, violations a non-criminal régime."

2. USE OF WEAPON DURING COMMISSION OF OFFENCE
(Clause 3, page 11)

Your Committee notes that the use of a weapon during the commission of an offence will be an offence under the proposed legislation, but your Committee is also concerned with the possibility that serious consequences may occur when a person is in possession of a weapon during the commission of an offence, whether or not he intends to use it.

It is, therefore, recommended that consideration be given to amending the proposed new section 98, in clause 3 of the Bill, by adding thereto a provision that anyone who has upon his person an offensive weapon while committing or attempting to commit an indictable offence or during his flight after committing or attempting to commit an indictable offence, whether or not he intends to use it to cause bodily harm to any person, is guilty of an indictable offence and is liable to imprisonment for five years or is guilty of an offence punishable on summary conviction.

Your Committee also recommends that it be further provided in the proposed new section 98 that where one of two or more persons, with the knowledge and consent of the rest, has an offensive weapon upon his person while committing or attempting to commit an indictable offence or during his flight after committing or attempting to commit an indictable offence, it shall be deemed to be upon the person of each and all of them.

3. DANGEROUS USE OF FIREARMS
(Clause 3, page 12)

Your Committee recognizes that the practice of using and storing firearms varies greatly in different regions of the country. In those areas where firearms are part of the everyday life of the residents, the use of firearms is accompanied by a knowledge of, and respect for, their dangers. In such regions it may be both difficult and unnecessary to take the precautions that in other regions, particularly in urban areas, would be reasonable and desirable.

It is, therefore, recommended that consideration be given to amending the proposed new subsection 99(2), in clause 3 of the Bill, by adding thereto a requirement that local circumstances, traditions and practices be taken into consideration by the courts when determining whether a firearm or ammunition has been used or stored in a careless manner or without taking reasonable precautions for the safety of other persons.

4. NOTIFICATION OF INTERCEPTED COMMUNICATION
(Clause 10, page 40)

Your Committee is of the opinion that the provision in the present legislation requiring notification to a person who has been the object of an intercepted communication should not simply be repealed, but should be replaced by a provision that would ensure that the required notification does not interfere with proper investigation by law enforcement authorities of the activities of organized crime and professional criminals.

It is, therefore, recommended that consideration be given to a provision that would amend the proposed new section 178.23, in clause 10 of the Bill, to permit a judge to grant one extension not exceeding 90 days of the period within which notification is required and to permit two judges to grant any additional extensions of that period or to eliminate entirely the requirement for notification.

5. REVIEW FOR PAROLE
(Clause 11, page 46)

Your Committee draws attention to the proposed new section 695.1, in clause 11 of the Bill, which provides that, where a person has been found to be a dangerous offender and has been sentenced for an indeterminate period, the case will be reviewed by the National Parole Board within three years after the person was taken into custody and, thereafter, not later than every two years for the purpose of determining whether the person should be granted parole.

Under this provision, where a sentence has been imposed for an offence and the minimum period that must be served before eligibility for parole is longer than three years, it is possible for the person who was convicted of the offence and who was found to be a dangerous offender to be released sooner than another person who was convicted of the same offence but who was not found to be a dangerous offender.

Your Committee, therefore, suggests that consideration be given to an amendment to the Bill that would provide that where a person has been convicted of an offence and has been found by the Court to be a dangerous offender the person would be required to serve a determinate sentence for the offence followed by an indeterminate sentence as a dangerous offender.

Your Committee also recommends that the Bill be further amended to provide that where a person has been sentenced for an indeterminate period as a dangerous offender, the National Parole Board shall, for the purpose of determining whether the person should be granted parole under the *Parole Act*, review the case not later than the end of the period required to be served for the offence for which the person has been sentenced before becoming eligible for parole, or three years, whichever is longer.

6. TRANSITIONAL
(Clause 12, page 47)

Your Committee is of the opinion that because of the significant differences between the present law in respect of habitual offenders and dangerous sexual offenders and the provisions in Bill C-83 in respect of dangerous offenders a review should be carried out with respect to all such offenders who are at the present time in custody under sentences of detention to determine which inmates do not fall within the terms of the description of a dangerous offender in paragraphs 688(a) and (b) in clause 23 of the Bill. Such inmates should be released if they have served a reasonable period of time in prison for the offences they committed.

7. SPECIAL APPLICATION OF REGULATIONS
(Clause 23, page 60)

Your Committee understands that the proposed new subsection 9(2) of the *Parole Act*, added by clause 23 of the Bill, is a transitional provision intended to provide for the application of regulations in various provinces as and when the parole boards in those provinces are appointed and become operative, pursuant to the proposed new section 5.1 of the *Parole Act* in clause 20 of the Bill. Your Committee, however, is concerned that the transitional nature of this provision is not reflected in the Bill.

Your Committee, therefore, would like to see the proposed new subsection 9(2) of the *Parole Act* amended so that its effect would be limited to the period of time and the circumstances for which it is intended since your Committee considers that it would be undesirable and could be discriminatory if a regulation governing parole were to be applied, after the transitional period, to inmates in certain regions of the country and not to inmates generally in all parts of the country.

8. PERSONAL INTERVIEW FOR PAROLE
(Clause 25, page 61)

Your Committee is of the opinion that consideration should be given to amending clause 25 of the Bill by adding a provision that would give an inmate the right to a personal interview following his application for parole to the National Parole Board at the time that he first becomes eligible for parole.

9. PAROLE BY EXCEPTION

Your Committee notes that the National Parole Board will no longer be permitted, where special circumstances exist, to grant parole by exception to an inmate before the inmate's eligibility date has been reached, as is now provided for by regulation.

Your Committee is of the opinion that the National Parole Board should retain this right, which, although exercised infrequently, permits flexibility in those situations where parole by exception is warranted.

Respectfully submitted,

H. Carl Goldenberg,
Chairman.

THE SENATE

Tuesday, May 18, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

SPORTS

MESSAGE OF CONGRATULATIONS TO MONTREAL CANADIENS ON WINNING THE STANLEY CUP

Senator Perrault: Honourable senators, together with Canadians from coast to coast, members of this chamber of all parties are always proud and gratified when Canadian athletes, amateur or professional, excel themselves, and, from time to time, motions of congratulation have gone forward when these achievements have occurred. So it is that all of us were very proud of the achievement last weekend of the Canadiens Hockey Club.

Honourable senators, rule 46(s) of the Rules of the Senate provides that no notice is required of motions of a merely formal or uncontentious character. In that spirit and observing the letter of our rules:

[*Translation*]

I move, seconded by Senator Flynn, P.C., that congratulations be conveyed to the members of the Canadiens Hockey Club on their brilliant performance during the hockey season and during the finals, and for the honour that will be shared by Canada on their winning once again the Stanley Cup and bringing it back to this country.

[*English*]

Senator Flynn: Honourable senators, I, of course, second the motion with pleasure. I agree with the Leader of the Government that no notice is required, but I am left wondering if notice would not have been required had Les Canadiens defeated the Vancouver Canucks.

[*Translation*]

Senator Perrault: This is a weighty question.

Motion agreed to.

[*English*]

[*Later:*]

Senator Greene: Honourable senators, I was very much taken by the words of the Honourable Leader of the Government vis-à-vis the magnificent victory of our Canadian hockey team in the Stanley Cup play offs. While it was a victory for Canada, and particularly so—

[*Translation*]

first, for the French-speaking hockey players, who are the most important group in Les Canadiens team—

[*English*]

I would like to remind this honourable Senate that there was on the team a fellow by the name of Mahovlich, who is of neither founding peoples, who played a great part in that victory.

Senator Flynn: I hope Senator Greene does not forget all those hockey players with the Flyers who also come from Quebec, who are Francophones and who would not be as happy as he is.

Senator Sullivan: Honourable senators, perhaps you would like to hear from a former hockey player. I take this opportunity to say, because I know Senator Molson cannot get on his feet and say it—

Senator Flynn: Why not?

Senator Sullivan: Because he would be too embarrassed, although he should say it. One of the greatest hockey teams this country has ever produced is the Montreal Canadiens.

Hon. Senators: Hear, hear!

Senator Sullivan: They demonstrated something that is most essential in present day hockey, and that is that they can play it either way. They demonstrated to the public at large, and particularly to the American public, that hockey as the Canadiens play it is the way we want it to be played, and the way we hope it will be played in future. Let us trust that the Philadelphia group and Kate Smith have learned a lesson.

[*Translation*]

Senator Fournier (de Lanaudière): If you would permit me, honourable senators—

Senator Côté: Is it as a former player?

Senator Fournier (de Lanaudière): No—except as a former player on the left wing, and very left-handed at that, during my college years, long long ago, but that is beside the point.

If Senator Greene wants to make a racial issue of this, I am very glad, since we have seen in the Canadiens' victory the perfect combination of Anglo-Saxons with French Canadians to win the great victory, the Stanley Cup, and deserve the title of world's best hockey team.

[*English*]

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Allard had been substituted for that of Mr. Laprise on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Agreement between the Government of Canada and the Government of Spain for Co-operation in the Development and Application of Atomic Energy for Peaceful Purposes. Done at Madrid, July 7, 1975. In force April 21, 1976.

Report on the Operation of Agreements with the Provinces under the Hospital Insurance and Diagnostic Services Act for the fiscal year ended March 31, 1975, pursuant to section 9 of the said Act, Chapter H-8, R. S. C., 1970.

GOVERNMENT EXPENDITURES RESTRAINT BILL

DATE OF INTRODUCTION IN SENATE—QUESTION

Senator Forsey: Honourable senators, I rise to ask a question of the Leader of the Government on the subject of Bill C-87. I wonder if he can give us any information about when that is likely to be brought forward to this chamber. As far as I know, it has not even got second reading yet in the House of Commons. At any rate, it certainly does not show any sign of coming here yet, and it contains a large number of important provisions which are retroactive to January 1.

● (2010)

I am inclined to be dubious about this business of retroactive legislation at the best of times, and when it is a matter of the rate of family allowances, which have been paid, I think, since January 1 at the old rate, or at the rate which will become payable under this retroactive legislation, I think this practice becomes even more dubious. I wonder if the Leader of the Government can give us any idea when this legislation is likely to come before this house, where some of the important principles involved can be adequately discussed.

Senator Perrault: Honourable senator, I will take that question as notice. An inquiry will proceed forthwith.

CANADIAN LABOUR CONGRESS

POSSIBILITY OF GENERAL STRIKE—QUESTION

Senator Austin: I should like to put a question to the Leader of the Government. Since this chamber last met we have read in the newspapers of the most interesting and, undoubtedly, important meeting of the Canadian Labour Congress. I wonder whether the Leader of the Government has any comments to make to us at this time about the possibility of a general strike in Canada, and whether he has any additional comments about the proposals for liberal corporatism by Mr. Morris.

Senator Perrault: Honourable senators, when available, the resolutions and statements made by the Canadian Labour Congress in convention will be studied by the government, and thus it would be inappropriate for me to comment at this time.

However, the government has taken the position since the inception of the anti-inflation program last Thanksgiving Day that we welcome the constructive input, not only from the CLC and from other labour organizations in this country but from management, from cooperatives, from credit unions, from those in agriculture and, indeed, from those in the entire spectrum of society. The determination is to make the anti-inflation program an effective, just program operating in the interests of all Canadians.

Senator Flynn: May I ask a supplementary question? Is the Leader of the Government in accord with the comments made by the Minister of Labour, Mr. Munro, about the same occasion?

Senator Perrault: Because I do not have the exact text of the Minister of Labour's statement before me, it would be unfair for me to comment on that statement at this time.

Senator Flynn: For him.

AERONAUTICS ACT

BILL TO AMEND—SECOND READING

The Senate resumed from Thursday, May 13, the debate on the motion of Senator Thompson for the second reading of Bill S-34, to amend the Aeronautics Act.

Hon. Allister Grosart: Honourable senators, as you are aware, this is a bill to amend the Aeronautics Act. It was well explained by Senator Thompson last Thursday, and I congratulate him on his explanation and answers he gave to the questions asked. However, I am going to suggest that the bill go to committee.

This is a bill that originates in the Senate, and it seems to me there are some questions to which we should have more complete answers than we have had so far, or would normally expect to have on second reading.

On the surface, the purpose of the amendments appears to be fairly simple. The intention, of course, is to extend the jurisdiction of the Government of Canada by substantive law or regulations by order in council to apply to foreign-owned and foreign-originating aircraft landing in Canada. As Senator Thompson explained, at the present time the act applies almost entirely to aircraft registered in Canada. The extension would add *any* aircraft.

The second amendment specifically prohibits the landing of a foreign aircraft unless there is evidence that the security safeguard measures required by existing Canadian regulations have been carried out in the country of origin. A problem arises, of course, as to how these regulations can be enforced.

I was a bit disappointed to read in Senator Thompson's explanation, which was no doubt the official explanation, that the minister will have authority to "request" that aircraft coming from other countries meet ICAO standards of inspection. One would hope that the Government of Canada would have authority to do more than request. The problem of enforcement of regulations in respect of aircraft originating in another country is a difficult one. The question immediately arises as to why it took the Olympic Games and Habitat for Canada to wake up to the fact that under our existing legislation we appear to have no protection whatsoever from the lack of security regulations applicable to aircraft originating outside Canada.

It is true that we may have relied on certain international conventions—conventions such as the Tokyo Convention, the Hague Convention, the recent Montreal Convention and others more recently concluded. However, the facts are as Senator Thompson pointed out, that a great

many nations have not ratified these conventions. Perhaps the most important convention is the famous Annex 77, and, as Senator Thompson told us, that has been ratified, or agreed to, by only about 50 per cent of countries. In committee we should be told what countries have not ratified this important convention, because the assumption has to be that they have a good reason for not ratifying it. Surely, we should know why certain countries say they will not agree to the generally recognized rules for the safeguarding of passengers, goods and ports of landing.

● (2020)

Senator Thompson gave us figures for some of the conventions. In the case of the Tokyo convention 81 countries signed; 72 countries signed the Hague convention, and 64 signed the Montreal convention. Apparently there is a declining number of countries prepared to enter into some kind of guarantee that passengers and cargo arriving on these aircraft will be subject to regulations respecting their safety.

I do not know how it is possible to enforce inspection at a foreign port of exit. Certainly, it will not be enough merely for the Government of Canada to make requests of these countries. We should be told what airlines are operating into Canada from countries which have not signed these conventions, although that in itself will not solve the problem. The kind of people who travel on these aircraft, together with the kind of things they carry with them, will constitute a most serious problem if safeguards are not somehow assured.

One of the amendments to section 5.1 of the Aeronautics Act is to the effect that no aircraft can land in Canada unless it has been subjected to the same type of security measures that we insist upon in Canada in respect of aircraft departing from and landing at Canadian airports. But is that enough? It appears from the information we have at the moment that we will merely say, "Well, if you don't provide us with these safeguards, you can be fined or you can go to jail." The amendment speaks of "every person". Well, who is the person? Is it the captain of the ship; is it the owner? Even if it can be tied down to an individual, surely the problem is that these are restrictions after the offence.

If an undesirable person with an undesirable cargo, a bomb, comes into the country, what sense does it make to say, "We will fine you; we will put you in jail"? How can this be enforced? Are there any plans to enforce this? I do not know. There is nothing in the bill, and nothing in the explanation we have been given, to indicate what we are doing. Are we saying to every one of these airlines, "Give us your assurance in advance." What sanctions will be attached to that assurance?

I suggest to honourable senators that these are questions we must have answers to. The amendments in this bill, as I see them, do not appear to be adequate to handle the kind of situation that is anticipated—that is, the entry into Canada of undesirable people and cargoes.

I think we should be told in committee how the cost of these security measures is to be apportioned. Senator Thompson indicated quite clearly that the present arrangements are far from satisfactory. The Minister of Transport has the prime responsibility for these security arrangements, and is apparently passing them on to the carriers—generally, to Canadian carriers. In committee I think it will be important for us to be told what are the costs involved, and how effective these security arrangements are.

I think most honourable senators will agree with me when I say that when one goes through a security check anywhere in Canada one is not greatly impressed with the effectiveness of it. I, like many senators, have been through these checks many times. I am not convinced they are adequate. Perhaps in committee we could be told just how effective they are. Have we some kind of assurance that in relation to the Olympic Games and Habitat Canada is not inviting another Munich? Yet this is, from all the indications, a real possibility. We have heard rumours, most of them denied—although I do not think any honourable senator could fail to be concerned about the possibility of such an eventuality—of deliberate plans now being made in certain countries, which may not be signatories to any of these international agreements, to disrupt, and possibly to tragically disrupt, these two great international events which are to take place in Canada.

Of course, this legislation applies not merely to these two events. We have to wonder why, as I said earlier, we have suddenly awakened to the fact that during all the time up to now we have had no safeguard whatsoever in the way of security measures being taken in respect of foreign aircraft landing at a Canadian airport. I hope that we can have a complete list of those countries which have not ratified these international agreements. I hope that we will be given some kind of satisfaction as to what measures we are taking to prevent a recurrence of the tragedy I have alluded to, rather than the mere imposition of fines or sentences of imprisonment on some undefined person after it has taken place.

Hon. Andrew Thompson: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if Senator Thompson speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Thompson: Honourable senators, I appreciate the very pertinent questions that Senator Grosart has raised, although, quite frankly, I do not think I can give adequate answers to all of them. There was, for example, the recurring theme of concern about knowing beforehand just what security measures have been taken by foreign carriers. I raised this question with the administration, and I was informed that the air carriers themselves can find out and report on what the situation is. The air carriers are concerned about their reputation vis-à-vis their competitors, and also with the safety of the whole travelling public, and the ministry can get information from them. Secondly, the Minister of Transport has an inspection agency which goes abroad to see that these security measures are being carried out by the foreign carriers. Thirdly, our own Department of External Affairs, as I mentioned in my introduction, has been making inquiries and, I assume, is carrying out some type of investigation in some of these countries to see what the security measures are. Fourthly, members of the RCMP are stationed in many of these countries. From these various sources the Ministry of Transport is able to ascertain to a large extent just what the security is. As Senator Grosart mentioned, the minister

does have some power to ensure that there will be security measures by foreign carriers. These measures are in section 5.1(11) with respect to violation.

● (2030)

Now, just what does "every person" mean? I raised this question myself, and I think it should be clarified. Do you just get to the pilot or do you get to the company? I am not a lawyer and I cannot answer that. I would hope that this and other questions could be answered in committee, and if the bill receives second reading I shall move that it be referred to the Standing Committee on Transport and Communications.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator Thompson moved that the bill be referred to the Standing Senate Committee on Transport and Communications.

Motion agreed to.

AN ACT TO REPEAL THE PROPRIETARY OR PATENT MEDICINE ACT AND TO AMEND THE TRADE MARKS ACT

BILL TO AMEND—SECOND READING

The Senate resumed from Thursday, May 13, the debate on the motion of Senator Cottreau for the second reading of Bill S-35, to amend an act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act.

Hon. Orville H. Phillips: Honourable senators, Bill S-35 is not a lengthy or a wordy one. However, it has the same effect as those which contain a great deal more print, and that is very little. The sponsor of the bill, Senator Cottreau, is ordinarily a very quiet individual; in fact, we can almost say he is a shy individual. But he excelled himself in that he was able to take a one-line amendment and stretch it to a full page of *Hansard*.

However, I find that he made several questionable statements in his remarks, and the first of these is that he was going to attempt to explain the government's policy on self-medication. I don't feel he did a very adequate job of explaining the government's policy, but then I would really hate to be in the position of explaining any policy of this government; in fact, my complaint is usually to the effect that the government does not have a policy. In the next paragraph he states that the policy is intended to erase the pressure of services on health care professionals. It is interesting to know that the sponsor of the bill represents an area of Nova Scotia that is famous for a particular brand of liniment. It was manufactured in Nova Scotia and sold in that province and, indeed, in parts of eastern North America long before the present Minister of Health assumed his portfolio. The reason that a patent medicine such as this particular brand of liniment became popular was that professional health care was not available in many parts of Canada. That is why patent medicines became so popular.

Senator Perrault: What did it cure?

[Senator Thompson.]

Senator Phillips: It was advertised, Senator Perrault, as being good for both man and beast. Usually those who used the liniment were confined to the barn with the animals.

Then Senator Cottreau went on to state that the government is rather concerned that patent medicines will be available for the relief of minor ailments such as headaches and indigestion. Honourable senators, we have had no trouble getting aspirin in this country. I have bought them in small country stores and restaurants. I recall buying them in a television and radio shop, and the proprietor was happy to sell them because his great grandfather had sold them in the same store. I tell this story to illustrate that we have been selling patent medicines for a long time. In fact, recently I was able to buy aspirins and Tums at an international airport. I didn't even have to go to the duty-free shop. I point out that they seem to be keeping up with the practice in this country.

It is interesting to note that Canadians use several million aspirins daily, and if we took into account the use of entrophen, the total would be much greater.

Senator Cottreau went on to state that there had been a federal-provincial conference of deputy ministers to ensure that the provinces knew how to sell patent medicines. I cannot think of anything more ridiculous than holding a conference on the selling of aspirins and Tums. I consider it a complete waste of high-priced help.

The real reason for the introduction of Bill S-35 was explained by the sponsor, perhaps a little bit unwittingly, but he did give us the reason when he stated that the Drugs Directorate of the Department of National Health and Welfare will not complete its classification of patent drugs until next year. Honourable senators, all we are doing is extending the expiry date of the present act from December 31, 1976, until April 1, 1977. If the officials in the Department of National Health and Welfare need more time to complete their work, I see no reason why we should not give it to them. We have already passed a bill to repeal the act passed in 1947, to which there was no objection, and in my opinion we can give the officials another three months' time.

Senator Sullivan: Honourable senators, may I ask the sponsor of the bill a question? I spoke rather fully on this subject on October 22, 1974, and I wonder if the sponsor referred to the debate which took place at that time.

Senator Cottreau: I did not mention the speeches of Senator Bonnell and Senator Sullivan, but I took time to read them carefully before I prepared my explanation of this amendment.

● (2040)

Senator Sullivan: Honourable senators, I see no reason whatever why this legislation should be sent to a committee.

Motion agreed to and bill read second time.

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

Senator Cottreau moved that the bill be placed on the Orders of the Day for third reading at the next sitting.

Motion agreed to.

ANTI-INFLATION ACT

BILL TO AMEND—SECOND READING

The Senate resumed from Wednesday, May 12, the debate on the motion of Senator Stanbury for second reading of Bill C-89, to amend the Anti-Inflation Act.

[*Translation*]

Hon. Martial Asselin: Honourable senators, the bill before us brings only minor amendments to the Anti-Inflation Act, Bill C-73, passed a few months ago. In fact, this piece of legislation only corrects the weak points in the general legislation, which we have singled out ourselves in our debates and in the study we made in committee. However, we are happy to see that in the proposed amendment to clause 11 of this bill the government recognized that Parliament is made of two chambers, the House of Commons and the Senate. Besides, when the time comes to repeal the Anti-Inflation Act, the House of Commons, the other place, will be able to benefit from the wise advice our House will give them. We could discuss at length the aspects of this bill concerning the implementation of the legislation with respect to those employed in building companies of 20 people or more, or wonder whether the payments made to the provinces to fight inflation are really in compliance with the Canadian Constitution. I leave it to the committee which will be responsible for a detailed study of this bill to give its opinion on those controversial issues.

At present, I think it is time to wonder whether the Anti-Inflation Act has been a success and has given the anticipated results or whether we are not witnessing a real fiasco.

Besides, my colleague Senator Phillips proved it when he answered the speech made by the bill's sponsor, and other senators on this side as well as on the other side wonder about the same things.

I will try tonight to prove with the arguments I will present to you that Bill C-73, with the amendment now under study, is not the one expected by Canadians. In my opinion it is a real flop for the Canadian economy. The Conference Board of Canada recently reviewed the situation since the implementation of the program. Here is what it had to say:

> The moderation in the rate of advance of the consumer price index in December and January was due almost entirely to the decline in the food component of the index reflecting a softening in the prices of agricultural commodities. Since the latter are exempt from controls of the federal government's anti-inflationary program, it would be erroneous to attribute the better over-all performance of consumer prices to the control measures.

You may recall that when statistics were given about the decline in prices of products, much propaganda was made on the side of the government, saying: "These are the results of our anti-inflation program". However, they forgot to tell Canadians that farm products were not included in the program.

A similar view is expressed in the March issue of the Wood Gundy economic report, where the same review is quoted and given as was reported by the Conference Board of Canada to which I have just referred. I think all honourable senators will agree that Canadians are living through an economic experiment. We are the guinea pigs of the anti-inflation legislation adopted by the government while the present administration follows a "touch and feel" system in running the economy. They are playing it by ear. And this is just what I intend to prove to you.

The year before Mr. Turner became Minister of Finance in 1971, real growth in the economy was 6.9 per cent, inflation was 2.9 per cent, unemployment was 6.4 per cent, and the budget roughly balanced, as did our exports with imports. But in the year Mr. Turner left office—last year—real growth had declined to 0.2 per cent, inflation was running at 10.8 per cent, unemployment stood at 7.1 per cent, the budget was more than $5 billion in deficit, and so was our trade balance. Under Mr. Turner, the federal budget grew from $14.8 billion to $30.8 billion, an increase of 108 per cent in four years or 27 per cent a year.

The main estimates for 1977 are up by 20 per cent compared with those for 1976. Moreover, when the government now in office speaks of restraint, when the ministers turn to Canadians to sell them the benefits of this anti-inflation legislation, no wonder people start to laugh. This is what is called restraint, whereas all economists feel that the government is the main factor, by failing to curb its own expenses, I repeat, the main factor contributing to the inflationary thrust that Canada has known until now.

Let us look at the money supply. It increased between December 1973 and December 1974, by 16.7 per cent.

We were told that the money supply increased by 23 per cent between December 1974 and December 1975. As any economist knows, expansion of the money supply is at a rate faster than real economic growth and that, in my opinion, is one of the prime causes of inflation. In short, the more money you print, the less it buys. Last year our money system grew on average by 13.8 per cent with real growth at .2 per cent only. So is it any wonder, honourable senators, we had 10.8 per cent average inflation for the year? Not only is the money supply continuing to expand faster than real economic growth, but the rate of increase is escalating in relation to that real growth. Let us look at the government's own figures. Last February 23, the Parliamentary Secretary to the Minister of Finance (Mr. Trudel) gave the following reply to a written question, as repeated by Mr. Stevens on page 11917 of *Hansard*.

> The annual percentage increases between 1968 and 1975 in currency and demand deposits was as follows: 1968, 4.4 per cent; 1969, 7.4 per cent; 1970, 2.3 per cent; 1971, 12.8 per cent; 1972, 14 per cent; 1973, 14.4 per cent; 1974, 9.7 per cent; 1975, 13.8 per cent. Real growth in the economy for the same years was as follows: 1968, 4.9 per cent; 1969, 5 per cent; 1970, 3.4 per cent; 1971, 6.9 per cent; 1972, 5.8 per cent; 1973, 6.7 per cent; 1974, 2.8 per cent; 1975, 0.2 per cent. As the increases in our money system have grown, our real growth has fallen. Inflation has been the result.

In the past four years the average increase in our money supply has been 13 per cent per year, while our real growth has been only 3.8 per cent.

● (2050)

You will recall that the Governor of the Bank of Canada, backed up by the Minister of Finance, has said that it

intends to restrain the money supply from 10 to 15 per cent this year. But in the last four years we have had an average increase of 13 per cent. So the Governor of the Bank of Canada is really saying we are to get more of the same and, in my opinion, that is exactly the principal reason we have been having such high inflation.

What must we think of the failure of the government to get unions to cooperate in the fight against inflation? I do not say that the government did not do its best. It did meet the unions but has it proposed major arguments to convince them that if they do not cooperate with the government in its struggle against inflation, it is the economic future of the country that is in jeopardy?

It remains that a great number of unionized Canadian workers have refused to this day to give the government the necessary and needed cooperation—I emphasize the words necessary and needed—for this fight against inflation to be relatively successful.

Honourable senators, most economists agree that without greater monetary and fiscal restraint, no price and wage control program has any chance of being successful. We must be honest with ourselves and the Canadian people and stop pretending that this is not so, like the ministers are doing. I would like to draw the attention of honourable senators to an article by Lawrence B. Smith, professor of economics at the University of Toronto, which is entitled "Canada's Incomes Policy: An Economic Assessment", appearing in the *Canadian Tax Journal* of January-February 1976, in which the author reviews the anti-inflation program in some detail.

I know that it is always bothersome to read quotations from newspapers. However, this is not very long, and if honourable senators give me leave to add to my speech this quotation from the article of Lawrence B. Smith, I would like this quotation to be inserted in my speech. Do I have leave of the Senate?

The Hon. the Speaker: Is it so agreed?

Some Hon. Senators: Agreed.

Senator Asselin: I shall therefore quote parts of the speech made by Mr. Sinclair Stevens in the House of Commons in which he refers to the article by Mr. Smith:

> I have already referred to an article by Lawrence B. Smith, professor of economics at the University of Toronto. In the article entitled "Canada's Incomes Policy: An Economic Assessment" appearing in the *Canadian Tax Journal* for January-February 1976 he reviews the program in some detail. On page 72, he asks:
>
> Will the incomes policy succeed?
>
> He goes on to say:
>
> As mentioned above, the success of the incomes policy ultimately hinges on the implementation of the correct demand restraining monetary and fiscal policies. If the government is serious about combatting inflation then it must reduce its rate of monetary expansion and it should significantly restrain its expenditures. Consequently, we should expect the incomes policies to be accompanied by considerable monetary and fiscal stringency.
>
> Professor Smith goes on to state:
>
> However, it is not clear that this will occur. First, in its policy statement "Attack on Inflation", the government quotes from its June 23, 1975 budget that "in its present cost-push form, inflation threatens" to create serious problems. But our inflation is not a cost-push inflation; rather it is a demand-pull inflation in its second stage created by excessive monetary and fiscal ease. If the government persists in incorrectly diagnosing the problem there is little likelihood it will introduce the necessary demand-restraining policies. Second, the government claims in its policy paper that it is setting in motion "monetary policies aimed at increasing total demand and production at a rate consistent with declining inflation", yet for the three months ending November 30, 1975 the money supply broadly defined rose 21.9 per cent, up from 8.8 per cent in the second quarter and approximately double the rate consistent with its own target rate of inflation for 1976.

I mentioned earlier that in our standing committee, this morning, Mr. Hood, the Deputy Minister of Finance, stated that from December, 1974, to December last the increase in the money supply in this country was 23 per cent.

Professor Smith goes on to say:

> If this is the result when the government perceives itself to be acting, the outlook is bleak. Third, the government states in its policy paper that government expenditure policies will be "aimed at limiting the growth of public expenditures and the rate of increase in public service employment". The policy paper then adds that a "very large proportion of the federal government's expenditures are made under statutory programs, and other arrangements where there is little flexibility". Thus, it appears the government is only paying lip service to the issue and is more concerned with justifying inaction than in taking action on the expenditure side. Fourth, the government in its policy paper refers to structural policies to combat inflation. But structural problems, while important because of their effect on relative prices, do not significantly affect the rate of inflation and hence concern with them deflects from the main problem. Fifth, there is a very great danger that the government will deceive itself into believing it has taken action to curb inflation by introducing an incomes policy and thus feel it less urgent to implement the appropriate monetary and fiscal restraint. For all these reasons there is a very great danger that the incomes policy will fail and worsen our economic problems.

What I am saying is that the whole success and credibility of controls depends upon what the Canadian people think. The government cannot be paternalistic as it is now without full cooperation of the Canadian financial institutions. How does the average Canadian, who will never read the AIB regulations, view the anti-inflation program? Do the Canadian people trust the government to check inflation? If we refer to recent Gallup polls on the popularity of the Canadian government and of the Prime Minister, the answer is no, because the program is too confusing and complicated. It is directed against one particular segment of the Canadian society. It is a selective control program

which penalizes only certain sectors of the Canadian industry while others may benefit from it with impunity.

After a trial period of several months, the Canadian people have not accepted the Anti-Inflation Act, perhaps because they do not understand it. To say the least, this legislation did not bring the expected results.

As I said during the debate on Bill C-73, the main cause of inflation is the government's extravagant spending. The federal government alone, honourable senators, now spends more than $30 billion a year. It is budgeting a 15 per cent increase, or another $4.5 billion during the next fiscal year. I find it incredible that somewhere in that $30 billion, somewhere in that $4.5 billion increase, there is not ample opportunity to make some hard pruning of government spending.

It is obvious that immediate action must be taken to increase our exports and increase our productivity. This is the exact antithesis of being told that your reward will be limited to an increase of 2 per cent for productivity. Now, our friends opposite have very often criticized our program, the program which we advocated in 1974 to control inflation. It will be remembered that the present government won the election on precisely that electoral platform. They told us that the Conservative program would never work. The salaries of low-wage earners would be frozen. With that Liberal propaganda, we know the results of the 1974 election. Of course, they did not want to copy exactly our electoral program as far as controlling inflation was concerned. They said, "We will try something a little different, we will try to apply selective controls."

Under our program, we would have imposed a 60- to 90-day total freeze. By this we would have gained two very important advantages: we would have avoided all the confusion that is rampant today where one group is allowed more, and another less. We would also have had the time to examine the economy in its frozen state with much more clarity than is possible today.

Secondly, and more important, our program would have been limited to 18 months at the most. This was not the straitjacket for life now envisaged menacingly, at least by the leader of the Liberal Party and the current government. We wanted to solve over a period of 18 months the basic distortions in order to stabilize the economy, and we would have provided incentives and concrete support to put back the economy on the upswing. When this government introduced the anti-inflation program, we were told it would not be a top-heavy program, there would not be too many bureaucrats involved. There would be a commission. There would be an appeal tribunal. There would be an administrator to make inquiries. There would not be a lot of employees. But they were going to attempt monitoring some 1500 industries; only 1500 industries would be affected. That is what we were told when the wage and price controls were announced by the government.

● (2100)

The supposedly Anti-Inflation Commission was to employ 200 officials, so we were told. We now learn controls will affect 20,000 industries, about 20,000; that the number of people to implement controls will be in the vicinity of 600. Mention should also be made, of course, of the director's staff, the appeal tribunal, and other government departments such as National Revenue, and also of course the provincial commissions to be set up. To date, my impression is that the government-established commission has not met the basic aspirations and principles the government originally had in mind. Let us take wage settlements, for instance. Wages were to be controlled. Well, the increases provided by wage settlements once reviewed by the commission averaged 16.2 per cent. This is much higher than the commission's original target of 8 per cent plus 2 per cent to represent productivity gains. So while the objective was 8 per cent plus 2 per cent, they went as far as finding 16.2 per cent wage increases acceptable.

As far as I am concerned, the controls program drew public attention away from those really responsible for inflation, namely the Bank of Canada, a government body, and their own expenditures, focussing attention on the private sector and labour-management struggle, in an attempt to keep their own share of the pie. Over the last three months, food price increases slowed down to a 6.5 per cent yearly rate while other items in the consumer price index went up by 10.7 per cent. During the six months' period before controls were established, the cost of living had increased at a yearly rate of 10.4 per cent. In other words, if you exclude the food component, there is more inflation today than existed prior to the introduction of the government anti-inflation program.

There is presently a backlog of 3,000 applications for price or wage review in the AIB. According to the findings of a Gallup poll released recently, 67 per cent of those questioned thought the program was unfair with regard to prices and 65 per cent felt it was unfair with regard to incomes.

I, for one, suggest that the administration has made three important mistakes in setting up the Anti-Inflation Board and the anti-inflation program itself.

First, they did not provide, as we suggested, for a total freeze during an initial 90-day period to allow for the forming of definitive rules which could be more easily understood. And we were criticized during the 1974 campaign, and we were criticized again. The government had criticized our anti-inflation program. It was said that it was not realistic to put a total freeze on incomes and wages during a 90-day period. But as a result of the shortcomings encountered in the legislation, the board is presently doing indirectly what was done directly by way of the controls they are applying through the amendment to the legislation now before us. I wonder who was acting in good faith. At that time, in 1974, our party was acting in good faith. What happens today is that we must now question the present government's good faith.

Secondly, the board seems to follow a highly discretionary approach in its decisions, with little consistency, since some wage and price decisions appear to be excessive as compared to the increase of 8 to 10 per cent provided for by the government.

Thirdly, I suggest that unlike the American approach where about 3,000 firms were covered by the program, the board has kept expanding their jurisdiction so that they will be reviewing about 100,000 concerns in the near future.

These past few months, the United States has been able to limit from 5 to 7.5 per cent the increase in its money supply, exactly half of what is forecast by Mr. Bouey,

Governor of the Bank of Canada. The United States is therefore fighting inflation while we hesitate, we do not know where we are going. Initially, as I pointed out, the board was supposed to have a staff of 200. According to the latest reports they had more than 583 employees, and six months later that figure comes close to the 600 mark. Will there be 1,000 by the end of the year?

The U.S. anti-inflation program has a comparable mechanism. The control board had at its peak—Phase II—a staff of 700 out of 220 million people whereas we have 22 million in Canada. In the United States inflation this year reached a rate of 6 per cent compared with 9 per cent in Canada. William Simons, the Secretary of the U.S. Treasury, forecast that the rate of inflation in the U.S. would drop to 2 per cent within a few years. In Canada, on the other hand, the government talks of a rate of inflation of 8 per cent for this year and 6 per cent for next year and 4 per cent afterwards, a rate considerably higher than in the United States. The Americans in Phase II of their program, which spread from November 15, 1971 to January 11, 1973, a period of 13 months, took an approach quite different from ours. Their regulation program was threefold. The first, which included 1,100 businesses with sales figures of $100 million, affected 55 per cent of gross sales in that country. The second included 1,500 businesses with sales figures between $50 million and $100 million and affected 11 per cent of gross sales in the United States. And the third, applicable to businesses with sales figures under $50 million, affected only certain businesses. In all, the United States did not try to regulate more than 3,000 businesses, which is a far cry from the current approach of the Anti-Inflation Board.

● (2110)

The Conservative Party has always been against the three-year period set by the government, as Senator Phillips pointed out so well, for the application of the anti-inflation legislation. And we brought in amendments in the other place asking that that regulation period be made shorter, for an extremely important reason. It is that the Parliament of Canada, both the House of Commons and the Senate, must from time to time review, scrutinize the data of the Canadian economy. It would seem because the government is in power it is running the show, but it is accountable to Parliament. If the anti-inflation legislation is to end only in three years, how do you expect the Parliament of Canada, the House of Commons and the Senate, to be able to make an in-depth study of the problems of the Canadian economy? How do you expect them to tell the government what would be the solutions likely to remedy the situation for the government and set the Canadian economy on another course?

That is why we objected and we still object to that three-year limit. We do not know if it will be three years because Mr. Pepin alleged recently in a conference that this period might be extended. The Minister of Finance is not sure either that the three-year period will enable the board and this government to check inflation. As I said, the government reports to Parliament, and by May 1, 1977, as our party suggested, it should come back before Parliament to report the results of the fight it waged against inflation with the board it created and ask the people's representatives, and also the Senate, if this Parliament has any suggestion to get the economy going again. That is why our party objects in principle to the three-year mandate given to the government. That is why we introduced amendments in the other place asking the government to shorten this period for the reasons I just gave. We shall see.

This bill will go to the committee. Of course, witnesses will be heard. We will ask them questions in order to justify our objections to the principle of the bill. I hope that we shall have the opportunity in the Senate to propose an amendment to restrict the mandate of the Anti-Inflation Board to May 1, 1977. In fact, honourable senators, the end result of a restraint program should be economic growth, and not a planned and controlled economy. Recently in Quebec City, we met with businessmen and they asked those present about the state of the Canadian economy. The main objection of businessmen is that the present government is adopting a highly disquieting paternalistic attitude. Through its economic policies, I would even say socialist policies, it tends to control private enterprise. In my humble opinion, the economic survival of Canada depends on private enterprise, and businessmen are concerned about the actions and statements of the Prime Minister and members of his cabinet about a new Canadian economy that they would like to establish. They would like the federal government to be more paternalistic, to exercise more control generally over private enterprise, while I believe that the state should interfere with private enterprise only by virtue of its complementary function. If private enterprise is unable to meet the needs of its industry and to operate it, the state must act only in the last resort and make a financial contribution. At the present time, Canadian businessmen are much concerned about this.

So, in my opinion, a 39-month period is too long. Moreover, with respect to a restraint program, it is no joking matter in Canada to try to convince Canadians that we are in a period of austerity and then restrict and freeze the salaries and salary increases of members of Parliament and senators. When certain people tried to use this legislation to make the people believe that we were tightening our belt, Canadian taxpayers found it very funny. How completely ridiculous to say: "We are going to preach austerity; we are going to freeze the salaries of MPs and senators. Then, you will have to do the same." How senseless, ridiculous, foolish! Those are the terms I use. The government thought it was going to make an extraordinary political capital out of that. We are going to show you that we are tightening our belts; we are going to limit to 7 per cent the increases of members of Parliament and senators. Then, we will say: "We have set the example; now, you do the same." How utterly ridiculous! If the government sought to make political capital out of that legislation, it was greatly mistaken. We were made the laughing stock of the Canadian people; 7 per cent, how pitiful!

I say, therefore, honourable senators, that the restraints I have just listed will not restore the faith of all the Canadian people. They want one thing only, to avoid a depression, an economic bankruptcy, which we are actually in the process of creating by supporting the government legislation now before us.

Senator Greene: Honourable senators, first of all, I should like to congratulate Senator Asselin on his speech, but I do not agree with everything he said.

Senator Asselin: I am not surprised at all.

Senator Greene: But I congratulate him on his ability, his eloquence, in making such a good case out of a poor one. When I sat with him in the House of Commons, he was one of the most eloquent and able speakers. The Canadian people are lucky to have such a talent working for them in this house.

Senator Bourget: This is generous. Very good.

Senator Flynn: Now wait and see what is coming.

● (2120)

[*English*]

Senator Greene: Ironically, I wish to take exception to the remarks of a colleague of mine on this side, Senator van Roggen, who apologized the other day for not preparing and sufficiently researching the remarks he made to this house. With respect, I disagree with that. Parliament should be a forum of debate, not of prepared speeches. But then Senator van Roggen proceeded to make one of the finest presentations to this house that I have heard. While I cannot emulate his success, I take the liberty of mentioning two simple points.

First, I think that controls of any kind should be limited to the greatest possible degree, and the government has made its intention clear in that regard.

Senator Flynn: Hah!

Senator Greene: And by some ironic twist of history the Senate is the guardian of individual liberties more than any other aspect of our body politic. I do not think that Sir John A. or the Fathers, God bless their souls, intended that function for us, but I think that has become our most important function. Therefore, we would be remiss if we did not have on *Hansard*, even from such a humble voice as mine, the fact that the Senate is on record as speaking strongly for the fact that controls of any kind, under any auspices, should be limited to the greatest possible degree, and that individual freedom of choice is what we in the Senate are here to respect and protect.

In some way we who believe in the free system have been remiss in failing to state to the people of Canada that there is a price for freedom. Ours is an inefficient system by definition, because it says that anyone can work where and when and on what terms he or she desires. It is easy to have full employment and limited inflation in a country which tells you where you work, on what terms you work and at what rate you work, and in which you have no individual freedom to make those choices.

The price of freedom is possibly that from time to time we have inefficiencies and inadequacies, and programs such as this are meant to cope with those over the short term. I do not think we should kid the Canadian public that they can have all the benefits of the statist society and still be free. Karl Marx's argument was surely that freedom is meaningless unless there is full employment, and control of the total economy can only be achieved by a statist system. Our premise has surely always been that it is better to be free, whatever the price may be, which includes economic inefficiencies from time to time which we bridge as best we can by the shortest possible interferences of coercion by the state. I think it should be on the record of the Senate that controls, even though they are necessary at this time, must be of the shortest possible duration.

I wish to make only one other point in these inadequate, ill-prepared and completely non-researched remarks, for which I make no apology because of the fact that I believe in debate in Parliament, and that is that the manifesto of the Canadian Labour Congress is completely contrary to any understanding of the parliamentary system. I do not think the Canadian Labour Congress can have a voice *per se* at the decision-making table. That voice is represented, as are all aspects of our society, by Parliament—the elected representatives in the other place, and us in this house. It is Parliament that speaks for the people in Canada—not the Canadian Labour Congress, not the Chamber of Congress, and not any other body.

I am satisfied that the voice of labour is adequately and honestly represented in both Houses of Parliament, and it does not need any manifesto from the Canadian Labour Congress that "we have to sit at the table," or that "the decisions are not going to be abided by us." As one who has strongly supported the cause of the working man, I deprecate the fact that apparently the leaders of labour in Canada have so little understanding of the processes of the free system that they issued that completely inadequate and—

Senator Lang: And scandalous.

Senator Greene: —that inadequate manifesto which is a negation of the parliamentary government which has been the basis of all our freedoms, including that of labour, in Canada.

Hon. Senators: Hear, hear.

Hon. Richard J. Stanbury: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Stanbury speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Stanbury: Honourable senators, I find myself in a rather strange position. I do not have any difficulty in answering any of the points made, or the questions put, about this particular bill because, while I agree with Senator Greene that it was a particularly eloquent debate with excellent speeches, none of them had very much to do with this bill. They were all really pointed at Bill C-73, which we debated *ad nauseam* some time ago and on which we have made our decision.

It is always interesting to have this whole question of the anti-inflation struggle elucidated by such eminent members of the Senate, but, as I say, it is pretty easy to deal with the questions which were raised in terms of this particular bill. Therefore, it is not difficult to move the reference of this bill to the committee. But I really must not stop there, because if there are going to be opportunities to take whacks at the government's anti-inflation legislation with the broad brush that was used this evening, then it is necessary that there be some whacks taken against the other side, and I wish to take a moment—not a long time, because the hour is late—to do just that.

● (2130)

Senator Greene has said there is a price to be paid for freedom. All of us agree that that is true, but I am not sure

that all of us understand the importance of inflation in our economy and society today, and I am not sure that all of us are prepared to pay the price which we must pay, because this disaster has come upon us through our own selfishness and our own unwillingness to discipline ourselves.

The Prime Minister worked with might and main to obtain agreement, a consensus, among the various elements of our society. He fought an election, as Senator Asselin has said, against the idea of controls. Liberalism does not include the principle, the philosophy, of controls. That is a Tory, an NDP or socialist kind of idea.

Senator Asselin: You should be ashamed!

Senator Stanbury: It was the Tories who wanted controls.

Senator Flynn: But you always do what you say you do not want to do.

Senator Stanbury: And it was only after it was found impossible to find a consensus among the parties—

Senator Flynn: Because you destroyed the possibility. Shame!

Senator Asselin: Shame!

Senator Stanbury: —and only after the domestic causes of inflation began to be felt, that it was necessary for the government to take steps to bring in anti-inflation legislation.

Senator Flynn: Oh no, that is a lie!

Senator Perrault: Unparliamentary! Withdraw!

Senator Stanbury: Madam Speaker, I am not sure that I am prepared to accept that kind of comment from the Leader of the Opposition.

Senator Perrault: Withdraw!

Senator Flynn: I say it is a lie because it is a lie.

Senator Greene: Unparliamentary!

Senator Flynn: Certainly not. I did not say he was lying. I meant that he was pronouncing a lie. There is a difference.

Senator Bourget: That is a Conservative philosophy if there ever was one. That is Conservative, all right!

Senator Perrault: Typical Tory tactics!

Senator Flynn: No, no, no!

Senator Asselin: You should be ashamed of speaking like that.

Senator Stanbury: I am ashamed that the Leader of the Opposition can make that kind of remark in this house and get away with it.

Senator Flynn: If my honourable friend will listen to me—

Senator Stanbury: I am in the middle of my speech.

Senator Flynn: Are you asking me to retract?

Senator Stanbury: No, I am not asking that.

Senator Flynn: You are not? Then do not say it. If you accept it, I will sit down.

[Senator Stanbury.]

Senator Stanbury: I simply say to you that controls were Tory policy, for whatever reason, so let us accept the catcalls from the other side. For whatever reason, the government finally accepted the policy which the other side originally insisted upon.

Senator Asselin: It is not the same.

Senator Stanbury: And now we have this kind of nit-picking and propaganda. It was Senator Asselin who talked about propaganda, as a matter of fact. Well, I tell you that the nonsense we have heard from the other side is propaganda. It is the kind of propaganda that we have not heard since the days of the tax review legislation, when the same vested interests had that same knee-jerk reaction, the same reaction as they are having now, the same reaction they always have as soon as anybody makes any kind of attempt to govern selfishness and the automatic desire of people to—

Senator Flynn: You are getting puffed up there.

Senator Stanbury: I always do.

Senator Flynn: The former President of the Liberal Federation of Canada is playing his role again.

Senator Langlois: Order! Order!

Senator Flynn: There is no need to call for order. I can interrupt as often as I like.

Senator Stanbury: Honourable senators, my point is that there is a price to be paid for freedom, and that price is something quite different from this kind of attack on legislation against inflation which we all know must succeed. Certainly the CLC knows it must succeed, and it does not have any alternative, just as the Conservative Party has no alternative.

Senator Flynn: The government has no alternative, either!

Senator Stanbury: We must make this legislation succeed.

The worst thing is that the opposition keeps saying it is not succeeding. There was an article recently by the publisher of the *Globe and Mail* saying that Canada is the worst managed country in the world.

Senator Flynn: That is right!

Senator Stanbury: If he did not know that that was false it would be different, but he does know it is false. We have been told by the OECD that Canada has one of the best managed economies in the world, and that in fact our rate of inflation has gone down during the life of these measures so far from 10.6 to 8.9 per cent.

Senator Perrault: Hear, hear!

Senator Stanbury: We have been hearing all about the great United States. The fact is that until two years ago the rate of unemployment was never lower in Canada than it was in the United States. For the last two years it has been lower than it has been in the United States. The great anti-inflation policy of the United States plunged that

country into the greatest depression they have had since the thirties; it put more people out of work and caused greater degradation and individual difficulty than anything else in all that time. The policies of the Government of Canada, on the other hand, kept that depression from occurring in Canada, and maintained our economic growth.

Senator Asselin talked about Canada having only .02 per cent of real growth in the GNP last year. In fact, however, it was one of the only two countries in the OECD that had any growth; all of the others had negative growth.

Senator Greene: As did the Leader of the Opposition.

Senator Asselin: Wait till the next election. You will see about that.

Senator Flynn: There is no parliamentary word to describe that kind of speech.

Senator Stanbury: Canada is one of the only two countries in the OECD in which the real income of the workers has continued to go up over the last ten years. We are one of the only two countries in the OECD in which that is the case.

Senator Choquette: Why do you not leave well enough alone?

Senator Stanbury: Another delightful little story that Mr. Malone told us—and it comes out of the mouths we have been listening to tonight—was to the effect that Canada has gone from the second highest standard of living to the seventh or eighth highest. The fact is that in real terms not only has Canada maintained its position as second in the world—and second only to the United States—but has closed the gap between its living standard and that of the United States to .4 per cent.

Senator Flynn: Yes, I am sure we are all in Paradise. There is no doubt about it.

Senator Smith (Colchester): You should have done the research that Joe Greene did not do!

Senator Stanbury: Honourable senators, this bill, which, as I say, has not been debated, makes the Anti-Inflation Act more workable and more just. There are legitimate questions to be asked, such as the one that Senator Lamontagne raised the other night, and they will be asked, I am sure, in committee. This bill will improve the working of the legislation. Goodness knows—

Senator Smith (Colchester): —it can stand it!

Senator Stanbury: —it will be helpful to have it work better. We all agree with that. There is nothing I hate worse than to have to live under controls of any kind, but if I have to then that is the price I am prepared to pay.

Honourable senators, I now move that the bill be read a second time.

Senator Flynn: You are closing the debate? Thank God!

• (2140)

Senator Lawson: Will the honourable senator permit a question?

What provision do you propose to make in this amendment that will cure the very real problem that we, who are practitioners under the measure, are faced with every week and every month? As you know, under the legislation the employer is responsible for filing with the AIB two reports. He makes no copies of the information he files available to the trade union he does business with. He gives no indication whether he has filed within any required time limit, and in some cases he delays for weeks—in some cases that we have recently been involved with he delays for months—while we are waiting and demanding, and the workers are frustrated while waiting for a reply. We contact Jean Luc Pepin and ask, "Why the delay?" and he says, "Well, the employer has failed to file," or, "One of a group has failed to file, and we cannot act." As one who said, "Let us give the controls a chance; let us try to make them work; let us try to assume our share of the sacrifice," I now say that if something is not done, and if you do not make some provision, this whole program is going to collapse under the sheer weight of its own bureaucracy.

So my question is this: What provision do you have to guarantee (1) that there will be speedy presentation by the employer of the reports; (2) penalties if they fail to do so; and (3) that the information will be made available to the trade unions so that they can respond as to whether it is accurate or not?

Senator Stanbury: Honourable senators, it is an excellent speech and an excellent question, and I suggest that it be asked in committee.

Senator Asselin: That is no answer.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

Senator Stanbury moved that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Motion agreed to.

TRANSPORT AND COMMUNICATIONS

NOTICE OF COMMITTEE MEETING

Senator Langlois: Honourable senators, before the motion for adjournment is put, I should like to make an announcement. A meeting of the Standing Senate Committee on Transport and Communications has been scheduled for tomorrow morning at 10.30 to consider Bill S-34. Notices will be on honourable senators' desks in the morning.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, May 19, 1976

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

Prayers.

INCOME TAX ACT

NEWSPAPER ACCOUNT OF COMMENTS BY PRESIDENT OF TIME CANADA LIMITED BEFORE STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

Senator Davey: Honourable senators, before the Orders of the Day are called, I want to draw the attention of the Senate to what I consider to be an important matter.

On Thursday, May 13, Stephen S. LaRue, the President of *Time* Canada Limited, appeared as a witness before the Standing Senate Committee on Banking, Trade and Commerce.

The Ottawa *Journal* of Friday, May 14, carried a reasonably accurate Canadian Press account of that appearance. However, the cut line on the story as it appeared in the Ottawa *Journal* did a great disservice to Mr. LaRue and to the Senate. The heading of the story reads: "Race Bias Charged by *Time* Canada Chief." There is absolutely nothing in the article which justifies such a heading.

I should like to quote from page 40 of issue No. 85 of the proceedings of the committee, where the following exchange took place between Senator Walker and Mr. LaRue:

> SENATOR WALKER: I guess the difference between you and *Reader's Digest* is that *Reader's Digest* had a French-Canadian edition, and when the Frenchmen in Quebec go to work, they really have quite an influence on the government, have they not?
>
> MR. LARUE: I suppose it has a political effect.
>
> SENATOR WALKER: And you have not?
>
> MR. LARUE: *Time* is English.

Honourable senators, this in no way constitutes a charge of race bias by Mr. LaRue, and I feel certain that if, as and when Mr. LaRue sees this story in the Ottawa *Journal* he will be as offended as I am and as are, I am sure, all honourable senators.

I draw this matter to the attention of honourable senators in the expectation that the Ottawa *Journal* will want to apologize to both Mr. LaRue and the Senate.

DOCUMENTS TABLED

Senator Perrault: Honourable senators, I have the honour to table:

> Copies of document entitled "Proposals to correct certain anomalies, inconsistencies, archaisms, errors and other matters of a non-controversial and uncomplicated nature in the Revised Statutes of Canada 1970 and other Acts subsequent to 1970," issued by the Department of Justice.

Senator Asselin: Explain.

Senator Perrault: If honourable senators will permit, I should like to give an explanation of the document I have tabled, copies of which, I understand, are in the process of being distributed to honourable senators today.

The proposals contained in this document are in the form of a draft bill which the Minister of Justice described yesterday, in tabling the document in the other place, as a "housekeeping" bill. Honourable senators who received, or are about to receive, copies of this document will note that it is marked "confidential." This is an error. The document need not in fact be treated as confidential.

There are a number of unique features in both the nature of the proposed bill and the method by which it is proposed to develop its content. Because of its unique nature, with the indulgence of honourable senators, I should like to provide a general explanation, without arguing for or against any of its content.

Senator Flynn: How can you do that?

Senator Perrault: I should like to start by pointing to some of the reasons for such a bill. In the view of the government and the Minister of Justice, it is possible for law reform to proceed on a number of levels. Law reform can occur simply by the modification of procedures used in administering laws; it can also occur through judicial decisions. It is important that law reform not proceed in a narrow and short-sighted way, but that its broadest ramifications be kept constantly in view. It is important that appropriate policies, responsive to the needs of our citizens, be embodied in legislation, and much of our discussion in this chamber revolves around the appropriateness of various policies in meeting these needs.

It is the opinion of the Minister of Justice that law reform should proceed on all of these planes simultaneously. Naturally, it will proceed at varying rates at these different levels, since each has its own mechanism of acceleration and restraint. But it is also important that law reform proceed at another level. It is important that our legislation be constantly pruned and trimmed, shorn of anachronisms and inconsistencies and changes in areas of obvious inadequacy, where there can be no disagreement amongst reasonable persons about the need for modification or the form that such modification should take.

Surprisingly enough, it is this kind of law reform that has, in some ways, fallen behind. One reason is that pressures upon the time of Parliament often preclude amendments to a bill from being introduced until major amendments occur. The housekeeping changes for a particular statute are then included in a larger bill. When the bill is debated, the so-called housekeeping changes usually receive quick approval from all parties. Meanwhile, desir-

able housekeeping changes for other statutes, which would, in all likelihood, also receive quick approval from all parties, must remain dormant for a number of years until the particular statute is ripe for amendments of a major nature.

I am advised that it is proposed, therefore, to provide a vehicle for proceeding with legislation of a non-controversial nature. The phrase "non-controversial" is stressed, since it will be the main criterion by which proposals for inclusion in the bill will be assessed. Determination of the criterion will not be difficult to establish.

● (1410)

In other words, these bills will only include provisions about which we can reach quick and easy agreement. Proposals for inclusion in the bill were invited from every member of this house and the other place, and all of these were given careful consideration. In addition, a comprehensive examination of federal statutes was made and members of the Bar, judges and others who are directly affected by federal legislation were invited to offer proposals for inclusion in the bill.

A completely "open" process is envisaged in developing the bill. Department of Justice officials will be fully available in due course to provide such explanation as may be necessary.

Honourable senators, in a news release and statement which has now been tabled by the Minister of Justice he has indicated that because of the heavy workload on the Justice and Legal Affairs Committee of the House of Commons, the draft bill will be referred to the Joint Committee on Regulations and other Statutory Instruments, and after that committee reports the bill may be introduced for first reading.

ANTI-INFLATION ACT

REPORT OF COMMITTEE

Senator Hayden, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, reported that the committee had considered Bill C-89, to amend the Anti-Inflation Act, and had directed that the bill be reported without amendment.

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

Senator Hayden: Honourable senators, I move that the bill be placed on the Orders of the Day for third reading at the next sitting.

Senator Flynn: As you wish. Where is the sponsor of the bill? We did not see him in committee this morning. After his speech of yesterday evening, I thought he would have attended the meeting this morning.

Senator Croll: He was very busy.

Motion agreed to.

AERONAUTICS ACT

REPORT OF COMMITTEE

Senator Haig, Chairman of the Standing Senate Committee on Transport and Communications, reported that the Committee had considered Bill S-34, to amend the Aeronautics Act, and had directed that the bill be reported without amendment.

THIRD READING

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

Senator Thompson: With leave, I move that the bill be read the third time now.

Senator Flynn: Does the bill have to have Royal Assent immediately?

Senator Thompson: I beg your pardon?

Senator Flynn: Would it help to proceed with this bill now, so that it may receive royal assent tonight or tomorrow?

Senator Thompson: It would be very much appreciated.

The Hon. the Speaker: The house has heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

ENERGY

OFFSHORE OIL AND GAS RESOURCES IN ATLANTIC PROVINCES—QUESTION ANSWERED

Senator Perrault: Honourable senators, on April 29 Senator Greene asked me the following question:

> Could the Leader of the Government inform the house as to the progress being made between the federal government and the governments of the Atlantic provinces with respect to the development of offshore oil and gas resources in those provinces?

I should now like to answer that question. Negotiations are currently in progress between the federal government and the three Maritime provinces, that is, Nova Scotia, New Brunswick and Prince Edward Island, with respect to the administration of offshore mineral rights. They have agreed to set aside the matter of ownership for the time being in order not to hamper and delay exploration for and development of strategic offshore oil and gas resources.

A meeting was scheduled for May 12 in Halifax at which officials of the four governments were to have discussed proposals for implementing a system of joint administration for the offshore in preparation for ministerial level discussions at a later date. I have no report as yet on that meeting.

You have read in the press that Petro-Canada is now providing a catalyst for new drilling activity on the continental shelf of Nova Scotia and, together with industry partners, will spend approximately $25 million over the next year in an effort to discover much needed energy supplies, with more projects contemplated for the years following. Without that catalyst it is unlikely that there would be much activity at all in this offshore region.

Negotiations with Newfoundland on the administration of offshore mineral rights have ceased for the time being owing to the insistence of that government that it administer these independently. This impasse, if not soon resolved, may have an effect on the level of expenditure

which industry is willing to put into exploration in this region, even if the best discoveries so far have been made here off the Labrador coast.

DEVELOPMENT OF TIDAL POWER IN BAY OF FUNDY—QUESTION ANSWERED

Senator Perrault: Honourable senators, Senator Smith (Colchester) also directed a question on April 29. He asked: "In view of the increasing importance of energy supplies, what is the present status of studies with reference to the development of tidal power in the Bay of Fundy."

The Bay of Fundy Tidal Power Review Board recently announced the initiation of studies as recommended under the recently concluded federal-provincial agreement between Canada and the provinces of New Brunswick and Nova Scotia.

A study budget of $2,145,000 has been approved for the first phase of the study program which is expected to be complete by February, 1977. These studies are expected to provide definitive answers regarding the economic viability of tidal power from the Bay of Fundy and the potential capability and mode of integration with the Maritime Power Pool as well as the most appropriate timing of any developments considered economically viable.

The major tasks which are to be undertaken in this initial phase are the following:

1. Tidal power plant design
2. Power generation optimization
3. Market and system analysis and transmission studies.

● (1420)

Other aspects of the first phase studies include consideration of socio-economic and environmental aspects which will be carried on concurrently with the foregoing major task studies.

FOREIGN AFFAIRS

SALE OF NUCLEAR REACTORS—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators, on March 30 Senator Manning asked a question regarding the sale of nuclear reactors to foreign countries, referring specifically to Argentina.

In reply, under international legal practice, intergovernmental treaties are binding not only the particular governments that sign them but on future governments as well. Argentina has honoured its international treaty obligations in spite of changes of government historically and there is no doubt that it will do so now, in the view of the Government of Canada. Of course, no nuclear cooperation could proceed without adequate intergovernmental guarantees being in place.

ENERGY

OFFSHORE OIL AND GAS RESOURCES IN ATLANTIC PROVINCES—SUPPLEMENTARY QUESTION

Senator Austin: The answer which the Leader of the Government gave to the question asked by Senator Greene on the offshore resources constitutional issue has a disturbing element in it. I understood the leader to say that it was estimated that exploration off the coast of Labrador might slow down or possibly even cease because the constitutional question has not yet been resolved in negotiation.

The honourable leader will remember that the federal government, in the mid-1960s, sent a reference to the Supreme Court of Canada in terms of the jurisdiction of the Province of British Columbia off the coasts of Canada, and that decision was rendered in favour of the federal jurisdiction.

Is the federal government now considering the necessity of unilaterally, or by agreement if possible, making a reference to the Supreme Court of Canada on the Newfoundland constitutional issue in order to avoid hindering the search for badly needed natural gas and oil resources in Canada?

Senator Perrault: The Government of Canada naturally is very concerned about the impasse, the situation which exists, and various courses of action are under consideration. Apart from that, I would like to take the question as notice and make a further statement to the Senate at a later date.

DEVELOPMENT OF TIDAL POWER IN BAY OF FUNDY—SUPPLEMENTARY QUESTION

Senator Riley: Honourable senators, I should like to direct a question to the Leader of the Government, based on the answer he gave Senator Smith with respect to the present status of studies regarding the economic viability of tidal power from the Bay of Fundy. Will the study apply to the whole of the Bay of Fundy, including the Passamaquoddy and Cobscook Bay area, or only the Minas Basin area? Studies have been made in the past on both these areas of the Bay of Fundy.

Senator Perrault: Honourable senators, the reply I gave does not contain a great deal of technical detail, but it does make reference to the economic viability of tidal power from the Bay of Fundy, and one would assume that there would be a comprehensive study of the situation. However, a further inquiry will be directed to the appropriate sources and I shall obtain the information required.

SETTING OF PRICES FOR CRUDE OIL AND NATURAL GAS—QUESTION

Senator Phillips: Honourable senators, last evening the Minister of Energy, Mines and Resources made an announcement in the House of Commons concerning increases in the price of crude oil and natural gas. The members of that place were provided an opportunity to ask questions of the government. Is it the intention of the Leader of the Government to honour this chamber with his explanation and permit us to ask questions here?

Senator Perrault: I appreciate the importance of the question raised by the honourable senator. The intention will be to table the statement by the minister tomorrow afternoon, and, of course, on the basis of its contents, honourable senators may wish to pose certain questions.

Senator Flynn: May I ask a supplementary question? Why is it not possible for the government to make the

same announcement in the Senate as is made in the House of Commons and make it at the same time?

Senator Perrault: Where possible, we endeavour to have this procedure followed. It is a suggestion with a great deal of merit and certainly it has full support on this side.

OFFSHORE OIL AND GAS RESOURCES IN ATLANTIC PROVINCES—SUPPLEMENTARY QUESTIONS

Senator Rowe: Honourable senators, the Leader of the Government, when answering a question raised by Senator Austin with respect to the Newfoundland constitutional issue, said that he will make a statement on this matter at a later date. I have a supplementary question. I am sure that we all heard with some perturbation the inference in the leader's answer to the effect that, because of the absence of any resolution of the claims of the Newfoundland government and those of the federal government in the matter of offshore oil rights, there will be some decrease in the amount of exploration off Newfoundland and Labrador. It has also been rumoured in the various media that there will be a decrease in exploration activities off the Labrador coast this year. This is a very serious matter because, as I am sure honourable senators are aware, the most encouraging signs for oil discovery are being found off Labrador.

Would the Leader of the Government indicate to us, if he has the information, whether or not the oil companies have stated categorically that the reason for cutting down on exploration in that region is the fact that there has been no resolution of the two conflicting claims?

May I say, apropos of that claim, that the Government of Newfoundland, on the best constitutional legal advice obtainable across Canada, has consistently claimed that its situation vis-à-vis that of the federal government in this matter of oil rights is different from that of other provinces, including British Columbia.

Senator Perrault: Honourable senators, that specific information will be sought. However, may I say that business and industry traditionally find it very difficult to expand and to grow and do advanced planning in a climate of uncertainty. There appears at this time to be a certain degree of uncertainty with respect to the ownership of the offshore oil resources in Newfoundland and Labrador.

Senator Rowe: In fairness to the leader, perhaps I should have said that in respect of those rumours and statements which have been made by the companies to the Newfoundland people, that at no time, insofar as my recollection goes—and I have been listening very intently to what has been said about this matter—have the companies indicated that that is the reason for their cutting back. I should have added that comment when I asked for the information.

Senator Smith (Colchester): Perhaps I may be permitted to ask the Leader of the Government a supplementary question along the same lines. Is it not correct that these same companies, or very nearly the same companies, have done all their drilling off the coast of the Atlantic provinces under exactly the same situation which is now termed "uncertainty"?

Senator Perrault: Honourable senators, there appear to be, as Senator Rowe said, differences between the legal claims entered by Newfoundland and the legal claims entered by some of the other provinces with respect to the ownership of offshore resources. Admittedly, however, there has been a degree of uncertainty for a number of years with respect to ownership of offshore resources in all of Canada's provinces which border the oceans. Hopefully, this matter can be resolved in the near future. I would point out that the same uncertainty existed in the United States until an agreement was achieved with certain coastal states to split 50-50 with the federal government of that country the returns from those offshore resources.

● (1430)

In preliminary references to the courts, it has been ascertained, certainly in the case of British Columbia, that there is federal jurisdiction over these offshore resources. That does not preclude, ultimately, an agreement being achieved between the provinces and the federal government regardless of the legal opinions which are obtained from the courts.

Senator Smith (Colchester): Honourable senators, I do not disagree with what the leader has said. Perhaps I did not make the purport of my question clear. As I understood his answer, it contained the suggestion that drilling was not proceeding as it might otherwise off the coasts of Newfoundland and Labrador because of uncertainties regarding jurisdiction in the coastal areas as between the federal and provincial governments.

The purport of my question was to demonstrate that in fact all the drilling which has taken place so far off the Atlantic coast has been undertaken in exactly the same circumstance of uncertainty, agreeing and admitting that there is a difference in the basis of the Newfoundland claim vis-à-vis the claims of other provinces. To me, this conveys the feeling that there must be some other reason than that of uncertainty, if there is a decline in the rate of drilling off the coasts of Newfoundland and Labrador.

Senator Perrault: There has been a degree of uncertainty, but in the case of New Brunswick, Prince Edward Island and Nova Scotia, agreement has been reached with the federal government to set aside the matter of ownership for the time being so as not to hamper or delay exploration for, and development of, strategic offshore oil and gas resources.

There could be an additional difficulty in the case of Newfoundland. I can only state at this time that I will endeavour to obtain additional information.

Senator Smith (Colchester): I thank the Leader of the Government and I draw his attention to the fact that drilling has been going on off those coasts for many years and it is only recently that agreement between the federal government and the three Maritime provinces mentioned has taken place.

Senator Riley: Honourable senators, I wonder if I might be permitted a question. Is it not true that in recent years, when this dispute originally arose, the exploration companies sought and obtained rights from the three Maritime provinces, irrespective of what might be the outcome as to which government had jurisdiction over the coastal areas? Did the Province of Nova Scotia not give these exploration companies the rights for offshore drilling?

Senator Smith (Colchester): Yes, it licensed them.

Senator Riley: And did they not also obtain those rights from the federal government?

Senator Smith (Colchester): Certainly. That is my point.

Senator Riley: So, the question now to be resolved is: Who has the rights to the benefits of any resources that might be found?

Senator Smith (Colchester): Yes.

Senator Riley: I am not arguing. I just wanted to get that clear in my mind.

AN ACT TO REPEAL THE PROPRIETARY OR PATENT MEDICINE ACT AND TO AMEND THE TRADE MARKS ACT

BILL TO AMEND—THIRD READING

Senator Cottreau moved the third reading of Bill S-35, to amend an act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act.

Motion agreed to and bill read third time and passed.

SOCIAL WELFARE

DISTRIBUTION OF INCOME—DEBATE ADJOURNED

Hon. David A. Croll rose pursuant to notice:

> That he will call the attention of the Senate to the sums of money mentioned in Bill C-91, intituled: "An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977", given Royal Assent on March 30th, 1976.

He said: Honourable senators, I am going to deal for a while today with the estimates of the Department of National Health and Welfare, more particularly with those concerning welfare, and, even more particularly, with distribution and redistribution of incomes.

Senator Flynn: Transfer payments.

Senator Croll: Let me first say a word about welfare. There is a great deal of talk today about welfare and about workfare; that is, making people work for the welfare they receive. Some suggestions are far-fetched. There has even been a suggestion recently that they ought not to make welfare payments in cash but rather in kind. I do not think much attention is being paid to such suggestions, but it is amazing that the first thought that comes to the minds of people when considering welfare recipients is how to whittle welfare payments down.

We are now in a period of economic restraint, and from all the speeches and suggestions one hears it appears that the economic elite are ready once again to sacrifice the poor. All of a sudden, persons who should know better, including some politicians, want to run against what they call the overindulgence of social engineering. We have to resist that sort of thing. What some view as a popular appeal, in far too many instances is an attempt to whittle down, to whittle away at, the social security system.

Senator Flynn: The welfare state.

[Senator Smith (Colchester).]

Senator Croll: We must challenge the prevailing thinking that we are allocating too much of our resources to social services and not enough to productive investments, and that is what I am going to deal with for the next little while.

Senator Flynn: I do not have to ask which side you are on.

Senator Croll: Our social security system has permanently changed the life of the Canadian working people for the better. In my view, it has saved the system. I cannot picture Canada without our present social security system. For whatever part I have had, along with others, in helping to build the present social mosaic, I do not feel guilty. My view is that our social security and welfare system is our proudest achievement, and the achievement through which we assert our moral strength and our greatness.

We should ask ourselves from time to time whether it is true what people are saying about welfare. In the early days, it was loose; it was lacking expert administration. It was never easy. There grew up the "welfare bum" myth; the myth that all welfare recipients are freeloaders; the myth of the "pie in the sky" people. You heard it all the time, and you still hear that the poor are poor because they do not want to work; the poor are lazy; the poor are illiterate, stupid. Those who say that are wrong, dead wrong, on every count.

Senator Flynn: If you say so.

Senator Croll: Dead wrong.

Senator Flynn: If you say so.

Senator Croll: Well, I say so because I know so. I know there are one million Canadians working at the minimum wage level who, in most instances, could get far more on welfare. Yet they continue to work!

Senator Flynn: I thought you were speaking of social welfare.

Senator Croll: I am speaking of social welfare. People thought it was easy to get on welfare. Let me tell you, it is not easy to get on welfare at all. I have in my hand the standard five forms that one fills in when making application for welfare in Toronto. With permission of the house, I would like these forms printed as an appendix to the *Debates of the Senate* of today.

● (1440)

Hon. Senators: Agreed.

Senator Croll: Honourable senators, I shall not read them to you, but will tell you that a person could spend a day on them, and even if he were a Philadelphia lawyer I am not sure that he could answer all the questions. The application for assistance consists of two pages; another application for welfare consists of four pages—

Senator Flynn: Those are the forms used in Ontario?

Senator Croll: Yes, the first four are the standard forms used in Ontario, but I think they are generally the forms used throughout the country. In addition, there is the consent to inspect assets, and the medical certificate. In any event, these are the forms which are used in Ontario and, from my knowledge, similar types of forms are used in many other parts of the country.

(*For text of forms see Appendix.*)

Senator Croll: Today welfare and unemployment insurance are being twinned, and everyone calls them the great rip-off. We must understand, however, that welfare today is not what it was years ago. The administrators are very capable and have had much experience, their staffs are highly competent, and the costs are carefully watched. It has been my experience that it is easier to get an unsecured loan of $100 from a hard-nosed and hard-hearted bank manager than to obtain $10 from a bleeding heart social worker. The reference to rip-off in welfare is mistaken. I will agree that rip-offs occur in connection with unemployment insurance at the present time. I regret them, as we must all regret them, but to compare welfare with unemployment insurance is to give welfare a bad name when it has been trying to live one down for a long time.

Senator Flynn: And also vice versa—you give unemployment insurance a bad name when you speak of welfare.

Senator Croll: I beg your pardon?

Senator Flynn: If you say that unemployment insurance is welfare, you give it a bad name.

Senator Croll: I did not say that.

Senator Flynn: Some people do say it, though.

Senator Croll: But I did not. Let me say, insofar as welfare is concerned, that if you wish to draw comparisons it is the cleanest game in town today.

Senator Flynn: Welfare?

Senator Croll: Welfare. I have often thought that if we are to compare it with some of the undertakings that take place—

Senator Grosart: Be careful, now.

Senator Flynn: You are on thin ice.

Senator Croll: Yes; perhaps I will leave it at that.

However, I have asked myself time and time again why, in the face of the large expenditures that have been made for welfare, we have not had any attributable distribution of income? I have searched my mind, as I am sure others have, but have not been able to come up with an answer for some time. For almost 25 years there has really been no change in the distribution. I ask myself: Who is getting the money, and how much? I have not been able to arrive at the answers. I searched personally for them, and think I had some luck. I will indicate my views—

Senator Flynn: I do not doubt that for a moment, that you have had some luck.

Senator Croll: I raise the matter to indicate that we cannot rely on social welfare alone to redistribute wealth. I said I have asked myself the same questions that you have asked yourselves, without being able to come up with an answer. I have in my hand, and will ask that it be included in my speech, a copy of a table headed "Distribution of Income By Quintiles," the source being Statistics Canada. The table covers the years from 1965 to 1973, and shows the distribution of family income by quintiles, five groups each of 20 per cent. This table would seem to indicate that between 1965 and 1973 the distribution of income by families has not changed significantly, with the lowest 20 per cent of families actually having their income share reduced from 6.2 per cent to 6.1 per cent.

(*The table follows:*)

DISTRIBUTION OF INCOME BY QUINTILES

	Share of total income reached by:				
	Lowest quintile	Second quintile	Middle quintile	Fourth quintile	Highest quintile
Families			Per cent		
1965	6.2	13.1	18.0	23.6	39.0
1969	6.2	12.6	17.9	23.5	39.7
1971	5.6	12.6	18.0	23.7	40.0
1973	6.1	12.9	18.1	23.9	38.9
Unattached individuals					
1973	3.2	8.6	15.2	24.9	48.1
All family units					
1973	3.9	10.7	17.6	25.1	42.7

Source: Statistics Canada.

I have another table, which is headed "Income Redistribution Through Government Intervention, 1970." The source of this table is a government department, and the figures appeared in an article entitled: "Impact of Tax, Transfer, and Expenditure Policies of Government on the Distribution of Personal Income in Canada," which I obtained from the Provincial Bank of Canada.

Senator Asselin: That is a good bank.

Senator Croll: It is a model constructed to try to determine the redistributive effect on income through government taxation and expenditure redistribution policies. The first column under the heading "Distribution of Incomes" shows distribution of income before government intervention; the second column shows those figures adjusted to reflect government tax and expenditure policies in 1970; and the third column shows the results simulated in 1970 for changes in government programs made between 1970 and 1973. Although this model may have limitations, it would seem that all the government redistribution programs since 1970 have had very little effect on income redistribution, increasing in the lowest quintile from 8.8 to 9.1 per cent of total income.

Senator Flynn: Are you trying to tell us that this policy of payments has served no purpose?

Senator Croll: No, but not very much.

Senator Flynn: Have they served nothing? I thought that you were saying it is a great policy but now you are trying to prove the contrary.

Senator Croll: I am saying that it—

Senator Flynn: —that it does not help.

Senator Croll: Of course it is helping the individual, but it is not having the distributive effect that it ought to have and which we thought it would have in the early days. As a matter of fact, in the first five years after social security was introduced there was a distributive effect.

Senator Flynn: And now it does not have that effect.

Senator Croll: At the present time it does not have that effect, and I will indicate the reason why I think that is so.

Senator Flynn: Are you suggesting an increase?

Senator Croll: At the conclusion of my remarks I will probably have convinced you also that there is a good reason.

(*The table follows:*)

INCOME REDISTRIBUTION
THROUGH GOVERNMENT INTERVENTION, 1970

Quintile	Money income range $	Distribution of families %	Distribution of Incomes non adopted (1) %	adjusted (2) %	simulated (3) %
Highest	12,000 and over	22.9	48.6	41.5	41.2
Fourth	9,000–11,999	17.9	21.5	20.9	20.9
Third	7,000– 8,999	14.5	13.3	14.0	14.0
Second	4,000– 6,999	20.8	12.3	14.8	14.8
Lowest	Less than 4,000	23.8	4.4	8.8	9.1

Notes: (1) Before government intervention

(2) Adjusted to government tax and expenditure policy according to 1970 programs

(3) Simulated in 1970 for government tax and expenditure policy according to the changes made in the programs between 1970 and 1973

Source: Dodge, D.A..
Impact of Tax, Transfer, and Expenditure Policies of Government on the Distribution of Personal Income in Canada. The Review of Income and Wealth, Vol. 21. No. 1, March 1975, p. 1 to 52.

Broadly speaking, the role of the government in economic affairs may seem to have two purposes. The first is to ensure full employment. By this term we mean the maximum utilization of all resources, both human and non-human, with the most beneficial effect possible. In doing so, the government attempts to bring the actual wealth of a country, the gross national product, as close as possible to the country's maximum potential, the potential gross national product.

● (1450)

The second role of government may be that of redistribution of income or wealth, as the maximization of income or wealth alone does not ensure an equitable distribution. This redistribution can be brought about through the government's powers of taxation and expenditure. My purpose here is to examine the federal government's expenditure programs to see whether in fact they represent an attempt to bring about a more equitable distribution of income, and in so doing I will try to make a distinction between what can be called "social welfare" programs and "welfare" programs.

[Senator Flynn.]

I take the term "social welfare program" to mean any government program which has a direct contribution and benefit, such as the old age pension, the family allowance, the Canada Pension Plan and unemployment insurance, all of which are universal in scope. We refer to them as "demogrants" and as "universal." The definition of "demogrants" is an equal cash transfer made to all members of the demographic group regardless of income. We refer to them today as universal demogrants, but I will use the term "universal."

A prime example of this is the old age security fund. Here a set percentage of income, both personal and corporate, as well as sales tax is directly credited to the fund. The basic old age security pension is universal. Everyone over 65 receives it regardless of income. There is a direct benefit each month in the form of a pension cheque. A supplementary pension under this program, however, cannot be considered a social welfare program, because it is based on need, income stipulations, and is not universal. It is welfare, and I make that distinction which I am sure the Senate appreciates.

Another example of such a program is family allowance payments. The contribution by government from consolidated revenue is fixed, although it is indexed for inflation, and the benefit is directed to all parents of children. However, the key concept here is universality. All children qualify, and their parents receive these payments regardless of their financial needs.

From these examples it should be obvious that these programs are ineffectual in bringing about any basic or fundamental change in the income distribution that has been established by the market economy. The prime reason for this is the concept common to all of them—that of universality. For instance, assuming that the income distribution of all people over 65 is similar to that of the country as a whole—and that is a reasonable assumption—there would be no fundamental shift in income. The rich will receive as much in benefits as they have contributed, and the same holds true for the poor.

Senator Flynn: That is income tax.

Senator Croll: You've got it!

In terms of unemployment insurance, because of its universality, the well-paid executive who is unemployed will receive benefits equal to or better than those received by a poor labourer, because benefits are based on past income up to a certain level. Because there is no restriction on income or wealth, a person who has great wealth but who is unemployed, and who could live quite extravagantly off his wealth, will receive benefits equal to or better than a person who is unemployed but has no wealth or savings to draw on. And these same arguments are true of family allowance payments as well.

Senator Everett: May I ask the honourable senator a question? Perhaps I am anticipating his remarks, but will he take into account the effect of taxation on the individual? Does he intend to come to that point because, surely, it is an essential portion of the argument he is making?

Senator Croll: No, I will not deal with the taxation portion of it. I am dealing only with the expenditure aspect.

Senator Flynn: Well, you are making sweeping statements. For example, you say that family allowances benefit everybody in the same way, but that is not true.

Senator Croll: Well—

Senator Everett: The honourable senator will agree, I think, that family allowances and unemployment insurance and standard pension benefits are taxable.

Senator Croll: Certainly.

Senator Everett: And that we do have a graduated system of taxation in Canada.

Senator Croll: Certainly.

Senator Grosart: Is the honourable senator arguing in favour of a means test now?

Senator Croll: A means test?

Senator Grosart: Or are you against it?

Senator Croll: I have not even mentioned a means test.

Senator Grosart: In his remarks, the honourable senator seems to be complaining that there is no means test and that these are universal programs, which is the exact opposite of a means test. The usual alternative to universality is a means test. I wonder if that is what he is favouring.

Senator Croll: No. I thoroughly approve of universality. What I am saying is that it has not the distributive effect. That is what I am saying. I will come to that, though. That is part of my argument.

Senator Flynn: Up to now it has not been too clear.

Senator Croll: I am having a hard time with you, but I will try to make it clearer. I am not saying that these programs are totally ineffectual in income redistribution. Because of the progressive nature of the personal income tax, it is obvious that, on an individual basis, the rich will contribute more than the poor to these programs. Assuming equal benefits to both, there certainly will be some redistribution. However, the effectiveness of this redistribution is reduced considerably because of universality.

Having made these observations, I think it is fair to say that these are all essential programs. It is obvious that there is no guarantee to the government that these programs will bring about a more equitable distribution of income. In fact, they may only perpetuate the existing distribution.

Now, I have not presented these arguments to suggest that the government should stop, reduce or fail to promote social welfare programs with universality. Certainly, the government must present programs to benefit all sections of society. All I have stated here is that, as a means of redistributing income, these programs are not very effective.

Senator Flynn: Will you be reconciling what you have just said with your first proposal, that the prime objective would be to use to the utmost the potential of the working people?

Senator Croll: You are an impatient man.

Senator Flynn: Up to now I have been trying to be patient.

Senator Croll: Just sit and listen and enjoy this, will you?

Senator Flynn: I am trying to enjoy it, but I must confess I'm having some difficulty.

Senator Croll: Just listen and I guarantee that you will enjoy it, because I notice you are following me closely and quite clearly.

Senator Flynn: Yes, indeed. I have not missed a word.

Senator Croll: Then you have already benefited somewhat.

Senator Denis: He won't learn anything.

Senator Perrault: It is a treat; not a treatment.

Senator Croll: I have taken the term "welfare program" to mean any government program which, although it may or may not have direct contributions, is based upon some criterion of need. A good example of that is the old age security fund's supplementary pension, which is based upon an income qualification. Here the contribution from consolidated revenue is paid by everyone. However, the benefits are restricted to those on the lower income scale. Since there is no universality, these programs represent an effective means of income redistribution.

● (1500)

There are other such programs as experimental guaranteed income plans, benefits under the Canada Assistance Plan, bursaries, scholarships, and so on. However, these "pure welfare" programs are few in number compared to "social" welfare programs, as we are about to see. Welfare programs represent the best and really the only effectual way to achieve a fundamental income redistribution.

During the 1970s there has been a large growth in federal government expenditures on social welfare. In a recent study of government expenditures, figures for social welfare expenditures were calculated and compared with subsidies given to business, industry, agriculture and fishing, which represented both cash subsidies and unpaid taxes because of preferential income treatment given corporations and others. These are, in fact, not only private welfare but hidden welfare, because they are hard to locate and it would be hard to find them in the blue book. They include taxation exemptions, capital cost allowance, depletion allowance, deductions for registered retirement plan contributions, and deductions of up to $10,000 under the registered home ownership plan. At the present time, under the heading of services for business there are 22 acts of Parliament, and under the heading of tax incentives there are 10 more, for a total of 32 acts of Parliament. In respect of social welfare there are 16 acts of Parliament.

Senator Flynn: The number of acts does not prove much.

Senator Croll: The findings of the recent study of government expenditures, to which I have just referred, are as follows:

	1972-73 ($ billions)	1973-74 ($ billions)
Social welfare expenditures	4.4	6.3
Subsidies and unpaid taxes to business, industry, agriculture and fishing	2.7	3.0

In this study, social welfare was taken to mean any grant or contribution for the economic, social, physical and mental health of specific groups within society.

From 1973 to 1974 social welfare increased by $1.9 billion, and this increase was broken down as follows:

	$ billions
Increased Family Allowance payments	0.4
Increased basic Old Age Security payments	0.5
New, direct government funding of UIC	0.8
Increases in other welfare programs	0.2
Total increase	1.9

This analysis clearly shows that of the increase of $1.9 billion in social program expenditures, $1.7 billion came in the form of what we have previously defined as "social welfare" programs.

Senator Flynn: Are you including provincial programs?

Senator Croll: No. I shall deal with those in a moment.

"Pure welfare" programs during this period have increased by only $0.2 billion. Therefore, despite the government's claim of large increases in government social programs, almost all of this money has gone into programs that are ineffectual in bringing about a fundamental change in income redistribution. Furthermore, many of these "social welfare" programs are being indexed to inflation so that they will continue to play a very large part in future government expenditure; and indexing is not true of welfare.

Senator Flynn: There has been a change with regard to old age pensions. There is no indexing any more. You know that.

Senator Croll: Your comments are not contributing anything.

Another interesting observation is that while "pure welfare" programs increased by only $0.2 billion, subsidies to business, industry, agriculture and fishing increased by $0.3 billion during the same period, thus further reducing the effectiveness of income redistribution.

Senator Flynn: No.

Senator Croll: What about other forms of government expenditure? First there are unconditional grants to the provinces. However, they are of no concern to us in this context, as we are only interested in federal expenditures. The provinces are another matter.

[Senator Croll.]

Next, there are transfers to the provinces for hospital, medical and post-secondary education. In terms of hospital and medical benefits, there is little income redistribution brought about through the provision of free or subsidized services, as benefits once again are universal, although progressive taxation will cause the rich to pay more in contributions and will have some effect. As for post-secondary education, although everyone will make a contribution, only those who go to university or college will benefit. Studies have shown that the majority of those attending post-secondary institutions are from the middle and upper income classes, and for these reasons income distribution may become even more unequal.

Finally, there are government administrative and capital expenditures which provide society with organization, services and social infrastructure. However, once again the benefits of such expenditures are universal, and provide no concrete redistribution of income.

Let me return to the concept of social welfare expenditures versus subsidies for business and industry. I made it clear that these subsidies are made under laws passed by Parliament, and I gave the number. I shall not trouble honourable senators by naming them. There is nothing illegal. Everything is proper, as is the expenditure for social welfare. As we have seen previously, social welfare expenditures outnumber subsidies by a ratio of two to one.

Senator Flynn: In amounts?

Senator Croll: Yes. If we eliminate the universal programs and deal only with welfare—if we eliminate the basic old age security pension, goverment funding for UIC, family allowances—this is what we have:

Insert table folio No 78

	1972-73 ($ billions)	1973-74 ($ billions)
Original social welfare expenditures	4.4	6.3
Minus—basic old age security pensions	-1.8	-2.3
Minus—government funding of UIC	-0.0	-0.9
Minus—family allowance payments	-0.6	-1.0
Total—pure welfare expenditures	2.0	2.1
Subsidies to business, industry, agriculture and fishing including estimated tax avoidance due to preferential treatment of income	2.7	3.0

• (1510)

From this analysis, we can see that welfare programs—

Senator Flynn: Federal welfare programs?

Senator Croll: I am only talking about federal programs.

Senator Flynn: You have to be precise.

Senator Croll: From this analysis, we can see that welfare programs only account for about one-third of all social welfare expenditures. The majority of expenditures go into "social welfare programs."

Senator Flynn: Surely the honourable senator realizes that welfare is, first, a provincial responsibility. He should put that in context.

Senator Croll: On the other hand, there are benefits that could be placed against welfare. The provincial story is very similar.

Senator Asselin: Is there any great difference between the two levels of government?

Senator Croll: There may be a difference. I do not know about that. I am dealing with the federal government because that is the one I know about. I was able to get the federal government's figures. If some other honourable senator can obtain figures in respect of the provinces, I would invite him to do so.

Senator Flynn: The provincial figures will be necessary in order to put your speech in its proper perspective.

Senator Croll: Of course, and I hope my speech attracts attention to the point where someone will go to the trouble of obtaining the provincial figures and putting them before the Senate. That is the purpose of my speech.

These programs, because of their universality, have only a limited effect on income redistribution. At the same time, subsidies and tax advantages given to business and industry exceed, by about 50 per cent, the amount spent on "pure welfare" programs.

Senator Flynn: Pure?

Senator Croll: I have not taken into account an amount of $250 million paid to the CNR and CPR that I noticed a few days ago. That $250 million item relates to road losses.

What this indicates is that private welfare, hidden welfare, draws out of the public treasury $1 billion more than public welfare. Those are the figures. If any honourable senator disgrees with them, I am ready to hear what he or she has to say.

Senator Flynn: Of course, you realize that the transfer of payments in respect of welfare depends upon the economic activity in the country.

Senator Croll: Not entirely.

Senator Flynn: That is the first objective, if you want to equalize payments. Productivity is of the essence.

Senator Croll: Of course. The working people in this country contribute in the same way. One has to look at both sides. All I am saying is that it is time to look at both sides of the ledger. People are always being told that welfare recipients are ripping off the system; that welfare programs are taking all the money. Let's look on the other side of the ledger. I am putting forward the other side, and somebody is not enjoying it.

Clearly, the second goal of government, to provide a more equitable distribution of income, has, so far, failed. More comprehensive studies seem to indicate this to be true, with the distribution of income not shifting throughout the years, despite increases in federal government social welfare spending. Perhaps the prime reason for this has been the emphasis placed upon, and preponderance of, "social welfare" programs which are universal in scope and, for that reason, limited in their effectiveness to redistribute income. That is not true in the case of "welfare" programs.

It is obvious that programs based on need can have a decisive redistributive effect. The present hope is that some form of negative income tax or guaranteed annual income will be implemented, thereby bringing about a fundamental change in income distribution in Canada.

The story that has been peddled around this country that welfare is robbing the till is simply not true. Welfare programs are not even getting their proper proportion, as is obvious when one looks at both sides of the ledger. It is not often that both sides are looked at. When the division is made, it is obvious that people on welfare are shortchanged. As I have indicated, I do not disagree with private or hidden welfare, but the public should know. It should not be hidden. It should be brought out into the open.

Honourable senators, the matter is now before the house. I took some pains in presenting it in the manner I have. As a matter of fact, it took a good deal of extra work to do so. I suggest that we view it in the manner I have set out, balancing it rather than always viewing it as being one-sided. That is the purpose of my presentation, and I hope that others will follow in a similar manner.

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 2145*)

SOCIAL WELFARE FORMS REFERRED TO IN SPEECH BY HON. DAVID A. CROLL

Ministry of Community and Social Services
Ontario

APPLICATION FOR
Assistance under the General Welfare Assistance Act
An Allowance under the Family Benefits Act

FORM 1

Name of Applicant (Surname)	(First Name)	(Second Name)	
Address: (Number) (Street)	(City, ,Town, etc.)		(Postal Code)
(Township) (County)	(Municipality)	Municipal Code	R.O.
Maiden name if applicable	Tel. No.		FWA

Has the applicant previously applied for assistance under the General Welfare Assistance Act or an allowance under the Family Benefits Act Yes ☐ No ☐ If 'yes', give particulars in narrative.

2 PERSONAL DATA

	Name	Birthdate D/M/Y	Education Last Grade Completed	Birthplace	Proof	Health
(a) Applicant						
Spouse						

(b) Next of Kin: _____ Name _____ Address _____ Relationship

(c) Marital Status of Applicant:

Single ☐ Married ☐ Common-Law ☐	Widowed ☐	Divorced ☐	Separated ☐	Deserted ☐
Date:				
Place:				

If applicant or spouse previously married please provide details _____

Does applicant or spouse have OHIP coverage? _____. If so, are premiums paid directly; through pension deductions or otherwise?
Give details: _____

1) Applicant: OHIP No. _____ Social Ins. No. _____
2) Spouse: OHIP No. _____ Social Ins. No. _____

Are special diets required by applicant, spouse or dependent children? Yes_____ No _____

3 DEPENDENT CHILDREN

Given Name(s) and Surname(s) under which Birth was registered for each child	Sex	Birthdate D/M/Y	Birthplace	School Gr.

4 STATE IN DETAIL REASONS WHY AID IS REQUIRED

5 RESIDENCE IN ONTARIO IMMEDIATELY PRIOR TO THE DATE OF THIS APPLICATION ..... Years Months

Details of previous residence: _____

80-00-001 (7/73)

6 INCOME

A. Past and present employment: (List employment of applicant and all members of household: include part-time and irregular employment, casual and odd jobs.)

(Give record of past employment of all employable members of household, cover a sufficient period for each person to indicate period of last regular employment.)

Employee	Employer (Name of Person Firm or Corporation)	Employer's Address	Number of hours Monthly	Weekly Wgs. Gross	* Net	Period of Employment From Mo. - Yr.	To Mo. - Yr.

Reason for leaving

* Net amount actually received

B. Rental Revenue Yes ☐ No ☐

Name	Relationship	Type of rental	Rate: weekly or monthly	Date commenced	Date ceased

C. Roomers (R) or Boarders (B) Yes ☐ No ☐

Name	R/B	Relationship	Date of birth	Rate: weekly or monthly	Date commenced	Date ceased

Is any roomer or boarder a child of the applicant and a beneficiary of Family Benefits, a student, or in receipt of General Welfare Assistance? Yes ☐ No ☐

If yes, provide details _____

Is there any other person living in the home? Yes ☐ No ☐ if yes, provide details

D. Other income of any beneficiary Yes ☐ No ☐ :

Description	Reference #	Applicant Date Commenced	Applicant Monthly Amount	Spouse or Dependent Date Commenced	Spouse or Dependent Monthly Amount
Old Age Security and G.I.S.					
Annuities Superannuation Pensions					
Insurance Benefits (Details)					
Farm or Business (Details)					
Alimony or Separation Payment					
Maintenance from putative father or deserting husband					
Mortgage Receivable - Loan Agreement					
Training Allowances (Detail Expenses)					
The Pension Act (Canada)					
Unemployment Insurance Act (Canada)					
War Veterans Allowance Act (Canada)					
Civilian War Pensions Allowance Act (Canada)					
Official Guardian					
Canada Pension Plan (Canada)					
Quebec Pension Plan (Quebec)					
Workmen's Compensation Act					
General Welfare Assistance Act					
Compensation for Victims of Crime Act, 1971					
Other (Specify)					

Is applicant, spouse or dependent child in receipt of any regular or periodic contribution from relatives or other sources? Yes _____ No ____

If yes, provide details in narrative.

Is applicant, spouse or dependent child in receipt of Public Assistance other than for which the application is being made? Yes _____ No ____

If yes, give rate $ _____ and date commenced _____.

Has applicant, spouse or dependent child received a student award? Yes_____ No _____ If yes, provide details in narrative.

Has application been made for any of the above types of income? Yes_____ No _____ If yes, provide details _____

Is any future income expected from any source? Yes_____ No _____ If yes, provide details _____

Means of subsistence of applicant and/or spouse _____

Did applicant and/or spouse serve in allied armed forces? Yes_____ No _____ If yes, dates and particulars _____

7 ASSETS

A. Check for each item held by applicant, spouse or dependent children at the time of application

	Type	Yes	No	Description	A	S	C	Amount
1.	Cash on hand							
2.	Bank accounts							
3.	Credit unions							
4.	Safety deposit box							
5.	Bonds, stock shares							
	and other securities							
6.	Mortgage receivable							

Type	Yes	No	Description	A	S	C	Amount
7. Loans, notes							
8. Accounts collectable							
9. Official guardian							
or public trustee							
(money in trust)							
10. Interest in							
Automobile or Truck							
11. Interest in business							
12. Other							

(ii) Are any future assets expected? (such as unadjusted claims, insurance, an inheritance, or lawsuit pending)

Yes ☐ No ☐ If yes, describe fully in narrative

B. REAL PROPERTY Yes ☐ No ☐

Description and Location Lot	Plan or Concession	Township and County or Street Address and City or Town	Applicant Spouse Dependent Children	Owned or Life Lease	Rented Vacant Occupied	Year Purchased	Assessed Value	Market Value	Balance of Mortgages

Transfer of property -- real or personal --

Has any property or assets been transferred by applicant, spouse or dependent children within three years prior to this application?

Yes ☐ No ☐ If yes, give details in narrative.

C. ESTATE OF DECEASED SPOUSE

1. Was there any estate? Yes ☐ No ☐ 2. Was there a will? Yes ☐ No ☐

3. Have letters probate or letters of administration been applied for? Yes ☐ No ☐

D. LIFE INSURANCE (On Life of Applicants and Dependents)

Policy No.	Applicant Spouse Dependent Children	Name and Address of Company	Beneficiary	Face Value	Cash Surrender Value	Monthly Premiums

8 DEBTS

Name of Creditor	Details	Verified		Amount
		Yes	No	

9 LIVING CONDITIONS

	Yes	No
Applicant		
Spouse		

A. Is person in hospital, nursing home or other institution?

1. If yes, give date entered _____

2. Name, address and type of institution _____

3. Rate paid by: GWA ☐ OHIP ☐ Other ☐ (specify) _____

B. Is applicant boarding? Yes _____ No _____ If so, with whom? _____ Relationship

Effective date _____ Monthly rate _____

C. Other living arrangements: - Expenses must be verified

		Weekly	Monthly	Yearly
Type of accommodation Owned ☐ Rented ☐	Rent			
Number of rooms Attached ☐ Detached ☐	Mortgage, principal and interest			
Fuel: paid by applicant ☐ or included in rent ☐	Taxes (gross)			
Are any costs shared? Yes ☐ No ☐ If yes, give applicant's share	Fire insurance (building and contents)			
Condition of property	Present mortgage balance			
Utilities (Hydro, water, phone)	Tax arrears	Fuel		Yearly
Give additional details of mortgage if necessary				
Name and address of landlord				

10. DECLARATION

I, _____ do certify that:
(Full name)

1. I am the applicant named in the foregoing application (or the person making application on behalf of the applicant).

2. All the statements in the foregoing application are true to the best of my knowledge and belief and no information required to be given has been concealed or omitted.

SHOULD AN ALLOWANCE OR ASSISTANCE BE GRANTED TO ME/TO THE APPLICANT ON THE BASIS OF THE FOREGOING INFORMATION, I UNDERTAKE TO NOTIFY THE DIRECTOR OR HIS REPRESENTATIVE OF ANY CHANGES IN MY/HIS CIRCUMSTANCES, ESPECIALLY THOSE PERTAINING TO ASSETS, INCOME AND LIVING ARRANGEMENTS.

_____ _____
Witnessed by
(signature of welfare administrator or representative, or intake authority)

Signature of applicant
or
signature of person making application on behalf of applicant

_____ _____
Witnessed by
(signature of welfare administrator or representative, or intake authority)

(Signature of spouse
If applicable))

TO BE COMPLETED BY WELFARE ADMINISTRATOR OR REPRESENTATIVE OR INTAKE AUTHORITY

Is applicant capable of managing the allowance or assistance? Yes ☐ No ☐

If "no", provide details and recommendations

Do you recommend a mail out report? Yes ☐ No ☐

The following forms, documents, certificates are attached: _____

To follow _____

Ministry of Community and Social Services

Ontario

The General Welfare Assistance Act

FORM 1A

APPLICATION FOR ASSISTANCE

PART 1

TO THE _____ WELFARE ADMINISTRATOR OF _____
(MUNICIPAL, BAND OR REGIONAL) (NAME OF MUNICIPALITY, INDIAN BAND OR DISTRICT)

I APPLY FOR _____ UNDER THE GENERAL WELFARE ASSISTANCE ACT AND
(STATE CLASS OF ASSISTANCE APPLIED FOR)

IN SUPPORT OF MY APPLICATION I MAKE THE FOLLOWING STATEMENTS:

1. NAME _____
(SURNAME) (GIVEN NAMES)

ADDRESS _____ TELEPHONE NO. _____
(NUMBER, STREET OR RURAL ROUTE) (MUNICIPALITY OR POST OFFICE)

DATE OF BIRTH _____ MARITAL STATUS _____ AGE _____
(DAY) (MONTH) (YEAR)

2. RESIDENCE FOR LAST 3 YEARS:

ADDRESS	MUNICIPALITY	PROVINCE	FROM (DAY. MONTH. YEAR)	TO (DAY. MONTH. YEAR)

3. PREVIOUS EMPLOYMENT:

DATE LAST EMPLOYED: FROM _____ TO _____

EMPLOYED BY _____ ADDRESS _____

NORMAL OCCUPATION: _____

4. DEPENDANTS AND OTHER PERSONS LIVING WITH APPLICANT: (IF SPACE INSUFFICIENT, USE REVERSE SIDE)

GIVEN NAMES AND SURNAME, IF DIFFERENT	SEX	AGE	RELATIONSHIP TO APPLICANT	PAYMENTS INTO HOUSEHOLD YES	NO
SPOUSE _____					
CHILDREN AND OTHER DEPENDANTS:					
OTHER PERSONS LIVING IN HOUSEHOLD (RELATIVES, BOARDERS, ROOMERS):					

5. INCOME AND ASSETS (LIST ALL INCOME AND ASSETS OF APPLICANT AND ALL DEPENDANTS LIVING IN THE HOUSEHOLD. SUCH AS PUBLIC ASSISTANCE OF ANY KIND, WAGES, FULL OR PART-TIME EARNINGS, BOARDER OR ROOMER INCOME, RENTALS, CONTRIBUTION OR PAYMENTS FROM ANY SOURCE, PENSIONS, ANNUITIES, BANK OR SAVINGS ACCOUNTS, BONDS, STOCKS, MONEY IN TRUST, INSURANCE POLICIES, REAL ESTATE, ETC.):

NAME OF PERSON HAVING INCOME OR ASSETS	TYPE OF INCOME OR ASSET	AMOUNT OF INCOME (PER WEEK, MONTH OR YEAR)	OR VALUE OF ASSET

50-00-001 A (12/73)

6. **NAME OF NEXT OF KIN** (WHERE APPLICANT INCAPACITATED OR RESIDENT IN A NURSING HOME)

NAME _____

ADDRESS _____

RELATIONSHIP _____

CONTRIBUTION _____

7. **STATE IN DETAIL REASONS WHY ASSISTANCE IS REQUIRED:**

_____

_____

_____

_____

_____

DATE: _____ 19 _____ _____ (SIGNATURE OF APPLICANT)

PART 11

TO BE COMPLETED BY THE WELFARE ADMINISTRATOR OR REGIONAL WELFARE ADMINISTRATOR WHERE APPLICANT IS RESIDENT OF A NURSING HOME

NAME OF NURSING HOME: _____

ADDRESS: _____

DATE LICENCE ISSUED: _____ LICENCE NO. _____

DATE OF ADMISSION OF APPLICANT: _____

RATE: $ _____ (DAILY) : $ _____ (MONTHLY)

I CERTIFY THAT THE ABOVE NURSING HOME IS LICENSED UNDER THE NURSING HOMES ACT AND I RECOMMEND PAYMENT OF AN ALLOWANCE FOR THE NURSING HOME CARE OF THE APPLICANT IN THE AMOUNT OF $_____ PER MONTH.

DATE: _____ 19 _____ _____ (SIGNATURE OF WELFARE ADMINISTRATOR)

Ministry of
Community and
Social Services

Form 3

Consent to Inspect Assets
The General Welfare Assistance Act

I, _____, an applicant under *The General Welfare Assistance Act*,

and I, _____ (complete only where applicable), spouse of the above-named applicant, consent that:

1. Any person authorized by the Minister may inspect and have access to information and records, relating to any account, safety deposit box, stocks, bonds or other assets held by me or on my behalf alone or jointly with any other person, in any bank, trust company or other financial institution; and

2. Any person authorized by the Minister may secure information in respect to any life or accident insurance policy on my late spouse.

_____
(name of spouse)

Dated at _____, this _____ day of _____, 19 _____

Witness: _____ Signature of Applicant _____

Address: _____

Dated at _____, this _____ day of _____, 19 _____

Witness: _____ Signature of Spouse _____
(where applicable)

Address if different _____

_____

50-00-003 (5/75)

Ministry of Community and Social Services
Ontario

MEDICAL REPORT IN RESPECT OF IMPAIRMENT

FORM 4

☐ *General Welfare Assistance;* ☐ *Homemakers & Nurses Services;* ☐ *Family Benefits.*

NOTE - KINDLY COMPLETE BOTH SIDES OF THIS FORM

NAME OF PERSON EXAMINED	SEX M☐;F☐	DATE OF BIRTH D. /M. /Y.
ADDRESS		

1. *a)* COMPLAINTS AND HISTORY OF PRESENT IMPAIRMENT

_____

_____

_____

b) DATE IMPAIRMENT COMMENCED: _____

2. EXAMINATION: (i) Mental Alertness _____ (iv) Pulse _____

(ii) Height _____ (v) Blood Pressure _____

(iii) Weight _____ (vi) Other Findings _____

Urinalysis: _____

3. DIAGNOSIS: _____

_____

4. PROGNOSIS: _____

_____

_____

5. PRESENT TREATMENT: _____

_____

6. LIMITATIONS IMPOSED BY THE IMPAIRMENT: _____

_____

_____

7. WITH OR WITHOUT TREATMENT WOULD YOU EXPECT SUFFICIENT RECOVERY TO TAKE PLACE IN THE MENTAL OR PHYSICAL CONDITION OF THIS PERSON AT ANY TIME IN THE FUTURE TO RENDER THIS PERSON EMPLOYABLE? YES ☐ ; NO ☐

80-00-004 (11/72)

8. DOES PERSON REQUIRE NURSING HOME CARE? YES ☐ NO ☐

IF 'YES', PROBABLE LENGTH OF TIME _____

9. DOES PERSON REQUIRE THE SERVICES OF A REGISTERED NURSE? YES ☐ NO ☐

a) IF 'YES', - VISITS RECOMMENDED: ☐ DAILY; NUMBER PER WEEK _____.

NUMBER PER MONTH _____.

b) VISITS REQUIRED FOR A PERIOD OF _____ DAYS; _____ WEEKS; _____ MONTHS.

10. DOES PERSON REQUIRE THE USE OF A WHEELCHAIR? YES ☐ NO ☐

11. RECOMMENDATIONS REGARDING SPECIAL DIETS: _____

12. OTHER RECOMMENDATIONS: _____

_____

_____

_____

In your opinion would you consider this person to be:

1) Medically employable ..... ☐

2) Temporarily unemployable for medical reasons but likely able to resume employment after:
   - less than six months ..... ☐
   - six months ..... ☐
   - one year ..... ☐
   - two years ..... ☐

3) Permanently unemployable for medical reasons and unlikely to be able to commence remunerative employment ..... ☐

4) Disabled to the extent that the person is severely limited in the activities pertaining to normal living such as self - care, communication, or motor activities, and this disability is likely to continue for a prolonged period of time

CERTIFICATE OF DOCTOR

PLEASE PRINT

I, _____ am a legally qualified medical practitioner and have examined the above-named person at _____ on _____ (DATE)

and this report contains my findings and considered opinion at that time.

SIGNATURE	DATE
ADDRESS	

METROPOLITAN TORONTO
DEPARTMENT OF SOCIAL SERVICES
DATA ENTRY INVESTIGATION FORM

CHECK ONE ☐ MIA ☐ MIC ☐ MID

CHECK ONE ☐ HOME INTERVIEW ☐ OFFICE INTERVIEW ☐ TELEPHONE CONTACT

02 REFERENCE NUMBER | 06 SOCIAL INSURANCE NO. | 07 GWA SERIAL NUMBER | OHIP NUMBER & DATE (D D M M Y Y)

APPLICANT

SURNAME 04

GIVEN NAME 05 | DATE OF BIRTH 03 | SEX 01

SPOUSE

SURNAME 21

GIVEN NAME 22 | SEX 24 | DATE OF BIRTH (D D M M Y Y)

MAIDEN NAME 23 | REFERENCE NO. 25

CURRENT ADDRESS

C/O ADDRESS 10 | APARTMENT NO. 11

STREET ADDRESS 12

POSTAL ZONE 13 | PROVINCE 14 ONT | POSTAL CODE 15

MUNICIPALITY 17 | PHONE NO. 16 416 | DATE FROM 18

MARITAL STATUS CODES
NUMERIC FOR SMI
ALPHA FOR G.W.A. 20

1 SINGLE — A
2 MARRIED — B
3 SEPARATED — D
4 DIVORCED — F
5 WIDOWED — C
6 COMMON-LAW — H
7 DESERTED — D
8 UNWED MOTHER — G
9 MINOR CHILD — E

FOR OFFICE USE ONLY

MESSAGE
CODE 35 | DETAIL 36

CROSS-REFERENCE

REFERENCE NO.		SURNAME		SEX
26		27		28
29		30		31
32		33		34

SERVICE DATA

	CODE	LOCATION	DATE
GENERAL ASSISTANCE TO UNEMPLOYABLES	67	68	69
GENERAL ASSISTANCE TO EMPLOYABLES	70	71	72
SUPPLEMENTARY ASSISTANCE TO A RECIPIENT OF A GOV'T BENEFIT	73	74	75
SPECIAL ASSISTANCE TO WORKING POOR	76	77	78
SERVICE ONLY	79	80	81

SPECIAL STATISTICS

MAJOR REASON G.W.A. GRANTED (COL 2)	☐ A. Desertion	☐ B. Hospitalization of Spouse	☐ C. Imprisonment of Spouse
	☐ D. Medical Reasons	☐ E. Orphanhood	☐ F. Separation or Divorce
	☐ G. Spouse/Parent on other Welfare	☐ H. Spouse/Parent in Training	☐ I. Student at School
	☐ J. Unemployment	☐ K. Widowhood	☐ L. Unmarried Mother
	☐ M. Other — Specify:-		
CASE STATUS (COL 3)	☐ A. New Application	☐ C. Continuously carried at Intake Level	
	☐ B. Re-Application — Minimum Break of One Month	☐ D. Active	
NON-RESIDENT (COL. 4)	☐ A. Maritimes	☐ B. Quebec	☐ C. Western Prov.	☐ D. Extra National	☐ E. Ontario

FORM SS107. 3/75

PRESENT ACCOMMODATION

Type of dwelling	Total Rooms	Rooms occupied	Shelter Paid To	Day	Month	Year

NAME OF LANDLORD

POSTAL ADDRESS OF LANDLORD

MONTHLY PAYMENTS		MONTHLY COSTS NOT INCLUDED IN RENT	
RENT		HEAT *	
TAXES		ELECTRICITY	
MORTGAGE PRIN. & INT.		GAS	
ROOM AND BOARD		WATER	

* FUEL REQUIREMENTS: DETACHED ☐ OTHER ☐ SEASONAL ☐ EQUAL BILLING ☐

DEPENDENTS

NAME	BIRTHDATE			16 & Over		10 — 15		0 — 9	
	Day	Mon.	Year	M	F	M	F	M	F

ASSETS

TYPE	AMOUNT
MOTOR VEHICLE MAKE YEAR	LICENSE NUMBER

PRESENT EMPLOYMENT OF APPLICANT & FAMILY, WORKING CASUAL, PART OR FULL TIME, INCLUDING STARTING DATES

NAME	EMPLOYER'S NAME AND ADDRESS	TYPE OF EMPLOYM'T (CASUAL, ETC.)	EARNINGS PER WEEK	EARNINGS PER MONTH	STARTING DATE

PRESENT INCOME GROUP A

SOURCE	MONTHLY GROSS
Earned by Applicant	
Earned by Dependents	
Government Benefits (Specify)	
Property, Rooms, Etc.	
Boarders	
Insurance or Annuities	
Other	
GROUP A TOTAL	

PRESENT INCOME GROUP B

SOURCE	MONTHLY GROSS
Canada Pension Act	
Unemployment Insurance Benefits	
D.V.A. or Civilian War Pensions	
Workmen's Compensation Benefits	
Canada Pension Plan	
GROUP B TOTAL	

LESS EXEMPTION TO BE DEDUCTED FROM DECLARED EARNED INCOME. STIPULATE REASON FOR EXEMPTION AND AMOUNT TO BE EXEMPTED.

I Declare that the information given by me in this form is both correct and complete to the best of my knowledge and that I have had no assets or income other than stated herein during the period:

FROM _____ 19____ TO _____ 19____

Signature of Applicant

_____

Signature of Spouse

_____

Signature of Department Representative (WITNESS)

_____

38

THE SENATE

Thursday, May 20, 1976

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

Prayers.

BUDGET SPEECH

ACCOMMODATION FOR SENATORS IN SENATE GALLERY OF HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, as previously announced, the Minister of Finance will deliver his budget speech in the other place on Tuesday next, May 25, at 8 o'clock in the evening.

May I be permitted to remind honourable senators that none but senators will be admitted to the Senate gallery of the House of Commons on that occasion. This step is being taken for the purpose of providing accommodation in the gallery for as many senators as possible. In this manner, senators will not be excluded from the gallery on account of many of the places being occupied by relatives and friends of senators.

May I add that such instructions were first issued in 1931 by the then Speaker of the Senate, the Honourable P. E. Blondin, and that this practice has been followed ever since by succeeding Speakers.

DOCUMENTS TABLED

Senator Langlois tabled:

Auditor General's Report to the Minister of Manpower and Immigration on the examination of the accounts and financial statements of the Unemployment Insurance Commission for the year ended December 31, 1975, pursuant to section 138 of the Unemployment Insurance Act, 1971, Chapter 48, Statutes of Canada, 1970-71-72.

Report, dated March 1976, of the Law Reform Commission of Canada entitled "Sunday Observance," pursuant to section 18 of the Law Reform Commission Act, Chapter 23 (1st Supplement), R.S.C., 1970, together with explanatory notes.

"Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations," dated May 1976.

ENERGY

STATEMENT OF POLICY RE OIL AND GAS—NOTICE OF INQUIRY

Senator Langlois: Honourable senators, on behalf of the Honourable Senator Perrault, I give notice that on Wednesday next, May 26, 1976, he will call the attention of the Senate to the "Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations" dated May 1976, tabled in this house today.

Senator Phillips: Is the honourable senator going to make any comment on the new oil and gas policy announced in the House of Commons by the Minister of Energy, Mines and Resources?

Senator Langlois: I have just given notice on behalf of the Leader of the Government that he will speak on that subject on an inquiry next week.

Senator Phillips: There will be a statement?

Senator Langlois: Yes.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, I beg leave to revert to Notices of Motions after the Orders of the Day have been dealt with.

Hon. Senators: Agreed.

ANTI-INFLATION ACT

BILL TO AMEND—THIRD READING

Senator Hayden moved third reading of Bill C-89, to amend the Anti-Inflation Act.

MOTION IN AMENDMENT NEGATIVED

Hon. Martial Asselin: Honourable senators, I mentioned Tuesday last, when discussing the principle of this bill, that it was unacceptable. Bill C-73, and the amendment in Bill C-89, can establish a permanent system of control over prices and income—I repeat, a permanent system of control. I feel that a period of 39 months, as mentioned in the law, is too long a period. I would strongly urge that this bill be submitted to Parliament for a complete review after 18 months.

In my view, Parliament must, from time to time, look after the evolution of our economy. It is the role and responsibility of Parliament to study, to examine and to scrutinize the economic and financial policies of government. As you know, our suggestion to have the controls for a period of 18 months only has always been rejected by the government. I would again, at this stage, stress our views on this bill.

Therefore, I move, seconded by Senator Phillips, that Bill C-89 be amended as follows:

Page 7: Strike out lines 10 to 23 and substitute therefor the following:

"(2) This Act expires on May 1, 1977, or on such earlier date as may be fixed by proclamation or a motion taken up and considered by the House of Commons

that is adopted by the House and concurred in by the Senate pursuant to subsections (8) and (9) unless, before May 1, 1977, or any earlier date fixed by proclamation or any such motion that is so adopted by the House and concurred in by the Senate, an Order in Council is made to the effect that this Act shall continue in force for such period of time as may be set out in the Order in Council."

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Hayden, P.C., seconded by the Honourable Senator Bourget, P.C., that Bill C-89, to amend the Anti-Inflation Act, be read the third time.

In amendment, it is moved by the Honourable Senator Asselin, P.C., seconded by the Honourable Senator Phillips, that the bill be not now read the third time but that it be amended as follows:

Page 7: Strike out lines 10 to 23 and substitute therefor the following:

"(2) This Act expires on May 1, 1977, or on such earlier date as may be fixed by proclamation or a motion taken up and considered by the House of Commons that is adopted by the House and concurred in by the Senate pursuant to subsections (8) and (9) unless, before May 1, 1977, or any earlier date fixed by proclamation or any such motion that is so adopted by the House and concurred in by the Senate, an Order in Council is made to the effect that this Act shall continue in force for such period of time as may be set out in the Order in Council."

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion in amendment will please say "yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: Those who are against the motion in amendment will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it and I declare the motion in amendment lost, on division. Is it your pleasure, honourable senators, to adopt the main motion?

Senator Grosart: On division.

Motion agreed to and bill read third time and passed, on division.

● (1410)

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

May 20, 1976

Madam,

I have the honour to inform you that the Honourable Louis-Philippe de Grandpré, C.C., Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 20th day of May, at 5.45 p.m. for the purpose of giving Royal Assent to a bill.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière,
Administrative Secretary to the
Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, May 25, 1976, at 8 o'clock in the evening.

In giving the usual brief summary of the work for the coming week I shall deal first with the committees.

On Tuesday at 2.30 p.m. the Legal and Constitutional Affairs Committee will meet *in camera* to consider its report on conflict of interest. At 3 p.m. the Foreign Affairs Committee will continue its study of Canada's relations with the United States, and at 3.30 p.m. the Special Joint Committee on the National Capital Region will also meet.

On Wednesday the Banking, Trade and Commerce Committee is scheduled to meet at 9.30 a.m. to hear witnesses on Bill C-58, the Science Policy Committee will meet at 3.30 p.m., and the Legal and Constitutional Affairs Committee will meet *in camera* at 3.30 p.m. to consider its report on conflict of interest.

On Thursday at 9.30 a.m. the Foreign Affairs Committee will meet again on Canada-United States relations. The Banking, Trade and Commerce Committee will hear witnesses on Bill C-58 at the same hour, and the Special Joint Committee on the National Capital Region will meet at 3.30 p.m.

In the Senate on Tuesday evening, Senator Austin will speak on Senator Croll's inquiry with respect to the state of the working poor in Canada. On Wednesday Senator Goldenberg will call the attention of the Senate to the interim report of the Standing Senate Committee on Legal and Constitutional Affairs on the subject matter of Bill C-83, intituled "An Act for the better protection of Canadian society against perpetrators of violent and other crime," which he tabled in the Senate on May 13. Senator Forsey will call the attention of the Senate to the proposed incorporation of Loto Canada.

On Thursday Senator Perrault will call the attention of the Senate to the "Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations," which I tabled today. In addition,

we can expect to have Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder, from the Commons.

Motion agreed to.

The Senate adjourned during pleasure.

At 5.45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Louis-Philippe de Grandpré, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

Honourable members of the Senate:

Members of the House of Commons:

I have the honour to inform you that His Excellency the Governor General has been pleased to cause Letters Patent to be issued under his Sign Manual and Signet constituting the Honourable Louis-Philippe de Grandpré, C.C., Puisne Judge of the Supreme Court of Canada, his Deputy, to do in His Excellency's name all acts on his part necessary to be done during His Excellency's pleasure.

The Commission was read by the Clerk Assistant.

The Honourable the Deputy of His Excellency the Governor General was pleased to give Royal Assent to the following bill:

An Act to amend the Anti-Inflation Act.

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, May 25, at 8 p.m.

THE SENATE

Tuesday, May 25, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Order in Council P.C. 1976-1023, dated May 6, 1976, amending Part I of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

Report of the Unemployment Insurance Advisory Committee on the Appeal System, dated February 13, 1976, pursuant to section 109(5) of the Unemployment Insurance Act, 1971, Chapter 48, Statutes of Canada, 1970-71-72, together with a letter from the Minister to the Chairman to the Committee.

Report of the Asbestosis Working Group, Subcommittee on Environmental Health, Department of National Health and Welfare, dated February 15, 1976.

Report of the Canadian National Railways for the year ended December 31, 1975, pursuant to section 40 of the Canadian National Railways Act, Chapter C-10, R.S.C., 1970.

Auditors' report to Parliament on the accounts of the Canadian National Railway System for the year ended December 31, 1975, pursuant to section 40 of the Canadian National Railways Act, Chapter C-10, R.S.C., 1970.

CANADIAN LABOUR CONGRESS

POLITICAL AFFILIATION—QUESTION

Senator Austin: Honourable senators, on May 18 I addressed a question to the Leader of the Government concerning the position taken by the Canadian Labour Congress at its convention in Quebec City, held over the last weekend. I asked in particular about the announced objective of the Canadian Labour Congress to take part in the decision-making process relating to government policy development. The Canadian Labour Congress is a direct supporter, sponsor and political affiliate of the New Democratic Party, which by its popular support represents less than 20 per cent of the Canadian political opinion.

Does the Leader of the Government not agree that the political affiliation of the Canadian Labour Congress is a total bar to their credibility to play the role in a democratic political process they are now claiming?

Senator Perrault: Honourable senators, without making any comment about the role of the New Democratic Party in relation to the Canadian Labour Congress, it may be said that the government seeks every opportunity to acquire input, information and the views of not only the organized labour sector of society but also the views of business, agriculture and the other sectors.

The announcement by the Canadian Labour Congress over the past few days that they seek to play a more important role in the decision-making process does not alter the view of the government that those who must make the final determination of government policy are those who serve in Parliament and are here because of the democratic parliamentary process.

● (2010)

I can announce to the chamber, however, that there will be a meeting in mid-June involving representation from the Canadian Labour Congress, the Prime Minister, the Minister of Labour and other officials, to compare more comprehensively the views which the CLC and the government hold regarding the policy input of organized labour and some of the views having been expressed in the CLC policy document issued as a result of that body's convention last week.

The government, as I said at the outset, always seeks ways to improve the consultative process with labour and to have a greater degree of participation by organized labour and other sectors in society in the development of sound policy.

Senator Forsey: Honourable senators, I rise on a question of privilege. As a former official for many years of the Canadian Congress of Labour and its successor the Canadian Labour Congress, I think I am in a position to say at once that the Canadian Labour Congress has never been affiliated with the New Democratic Party and that only less than 300,000 of its two million affiliated members in the affiliated and chartered unions are in unions affiliated with the New Democratic Party. Unless some development has taken place very recently to change this, I can assert with perfect confidence that no such affiliation has ever existed.

Senator Flynn: I am not too sure it is on a question of privilege, but I am happy to accept the statement made by Senator Forsey. I do not agree, however, that it has been entirely proven up to now. I should like it to be, though.

Senator Forsey: Surely, the ones who should have to prove their statements are the people who make such allegations.

Senator Flynn: May I ask the Leader of the Government if this announcement of the meeting set for mid-June between the government and the Canadian Labour Congress is the first announcement made? Are we privileged in this instance?

Senator Perrault: May I say that just before eight o'clock this evening I was in conversation with the Minister of Labour who told me that in his view there would be no objection to having a statement made in this chamber

tonight. I do not know whether another announcement was made in the other place this afternoon.

With respect to Senator Forsey's statement that the CLC is not affiliated officially with the New Democratic Party, it may be that the Honourable Senator Austin may wish to clarify his original statement, but I believe there is a long record of the participation by the leaders of the CLC in activities on behalf of the New Democratic Party. Certainly, during my politicial career I have always been quite aware at every election of not only the financial but the working opposition of certain members of the CLC to any Liberal, Conservative or non-NDP candidate.

Some Hon. Senators: Hear, hear.

Senator Forsey: It depends on the union. It depends on the particular union, honourable senators. It depends on the particular union: some particular unions, some local unions, some district unions, some national unions are affiliated. Most of them are not. The last figure I saw only a few days ago was 287,000 people in CLC unions affiliated with the New Democratic Party. There has never been, I repeat, unless somebody can produce proof of some recent change, there has never been any affiliation with the New Democratic Party by the Congress as such. Nor has there ever been one single copper contributed to the New Democratic Party by the Congress since the founding convention in 1961, which led to my withdrawal from that party.

Senator Austin: Honourable senators may wish to look into the accuracy of my statement, but I have had the impression that the CLC supported the New Democratic Party *de facto* if not *de jure*.

Senator Forsey: That is not an affiliation.

Senator Perrault: Honourable senators, be that as it may, the government is always open to constructive representations from whatever the source and regardless of the political affiliation, if any, of that source. It is not a bar to speaking to the Government of Canada merely because certain affiliates of the CLC may choose to have the New Democratic Party as their political wing. So we welcome conversations with the CLC.

Senator Flynn: For what they are worth!

NATIONAL DEFENCE ACT AND CRIMINAL CODE (TOTAL ABOLITION OF CAPITAL PUNISHMENT)

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Argue, seconded by the Honourable Senator O'Leary, for the second reading of the Bill S-23, intituled: "An Act to amend the National Defence Act and the Criminal Code (total abolition of capital punishment)".—(*Honourable Senator Prowse.*)

Senator Perrault: This order stands until Tuesday, June 22.

LABOUR

THE WORKING POOR—DEBATE ADJOURNED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Croll calling the attention of the Senate to the state of the working poor in Canada.—(*Honourable Senator Petten*).

Senator Petten: Honourable senators, I defer to Senator Austin.

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

Hon. Senators: Agreed.

Hon. Jack Austin: Honourable senators, our colleague, Senator Croll, gave notice to this house earlier this year that he would call our attention, and that of the Canadian public, to the state of the working poor in Canada. Pursuant to that notice he rose in the Senate on April 5 last and set forth in his usual articulate, cogent and decisive way, a statement of the affairs of the working poor that not only demands our continuing public concern and attention, but raises for Canadians a need for an inner review of both our social conscience and our economic self-interest.

Senator Croll has asked some of us to participate in this debate in order to emphasize to the Canadian people and other parliamentarians that this problem of the working poor is overdue for attention. I am happy to respond both because I believe him to be right in his concern, and because his work in the Senate, while doing credit to Senator Croll's wisdom and humanitarianism, has also enhanced the reputation of this chamber for relevance and for compassion.

This debate is one of many that Senator Croll has raised in this chamber and elsewhere on behalf of those in our Canadian society who are "on their own" in life in a real and basic way which would frighten the more comfortable Canadian majority, if they were ever to have even a tiny glimpse of how it feels, or might feel, from inside that social stratum. They are not important members of a corporate or trade union entity with economic and political leverage in society. They are not organized in ways that give them particular political attention in their own communities. They are poeple who are giving every ounce of their energy and those of their families to attain the basic needs of human beings, as understood in this country, and have little leisure time to consider the whys and wherefores of their circumstances. To repeat a well coined phrase, it is hard to remember that you came to drain the swamp when you are up to your neck in alligators.

What better purpose has the Senate than to speak on behalf of those in our society whose voice is weak or inaudible above the clamour of others? What more important work is there for us than to aid in achieving recognition and a place in the national priorities list for those who deserve it, but who need a policy and legislative ombudsman to overview and assist in the attainment of their requirements and proper entitlements as members of Canadian society?

Let me repeat my admiration and respect for Senator Croll in leading the way in developing this role for the Senate, and in using his public trust and office to represent a group in the Canadian community who require to be understood and heard by us all. No less a reason for my participation in this debate is to be able to honour him as one of our most senior colleagues, and to urge him to

continue this cause without flagging, for many years to come or until poverty is eliminated. I say this with sympathy for the poor, but because of our association with Senator Croll I am happy that it will keep him active for many years yet.

As a result of Senator Croll's work and that of the Special Senate Committee on Poverty, many here are familiar with the basic story and statistics relating to the working poor. Senator Croll brought us up to date with the facts set out in his address in the Senate on April 5, and he gave us further useful insights as a result of his participation in the Senate on May 19 last.

To the basic information which senators have and understand, I would like to add to the Senate record a brief report on the belief and conclusions of our fellow Canadians. In a Gallup poll of opinion, reported in the *Citizen* on May 22, 1976, it was concluded by 1,068 adults from a representative sample of income groups that the least amount of money a family of four needs to get along on is $200 a week. Senators will instantly recognize that the view, based as it is on current empirical data, is $1,800 more a year than even the Senate committee view of the poverty line in 1975, shown on page 2020 of the Senate *Debates* as $7,871.00 per annum.

The stark fact that jumps from all the collected statistics is that one family out of every five in Canada lives in poverty, or struggles daily with insecurity of income and employment. This continues at a time in the life of Canadians generally when we are enjoying an affluence never before known; yet we have close to 2 million people at or below the poverty line, including over 1 million in the category of the working poor.

● (2020)

At least today we have no need to argue with the dominant philosophy of the Social Darwinists of the 19th century, that poverty removes misfits from society. The great depression, along with the Keynesian revolution in social and economic thinking, has convinced us of the need of society to use the institution of government to modify the excesses of the private enterprise economic system, even if we have not yet discovered how to succeed at it, as shown by our current problems with economic growth, inflation and unemployment.

Today, we understand clearly that the ability of our society to continue its economic growth within a more rational context for the use of natural resources and the environment depends more on our investment in human capital than it does on physical capital. The existence of poverty is a factor that retards our economic growth as well as our social growth and political stability.

One of the phenomena of our time is that we can experience an excess of demand for skilled labour at the same time as the poor go unemployed or underemployed. This proves so clearly how we have misallocated our human and physical resources. The relative yield on investment in human capital is very high, and yet we go on underinvesting. The poor are our nation's most underutilized asset, and by leaving them poor we keep at a lower level the potential per capita output of our society, and we diminish the prospects for economic growth.

Notwithstanding the fact that many in society know this to be true, it is fashionable to argue that the source of funding for investment in human capital could be based only on the fact of a growing economy, one that created a "fiscal dividend", or new capital from which the investment allocation could be made. In the midst of the great depression, when poverty was the concern of the many, this was not thought to be the *sine qua non* of our philosophy. Then government began its programs with public spending, based on an expansion of the money supply and, as Lord Keynes foresaw, the initial redistribution of then vested resources quickly led to an expansion of the whole economy through enhanced demand. Those who had capital and saw it placed in human investment were afraid to object at the time. The cities were full of poor, and the railway box cars were full of poor; the factories were empty. People with capital feared to object, and yet in less than a year the economy was on the march instead of the poor. Investment capital achieved a security and a rate of return in the years following that it did not know how to acquire on its own.

Today, as I have said, the argument that has become fashionable is that the economic pie must grow continuously to provide an adequate slice for social welfare. We have no concept in this country today of what social policy can, or should, be without economic growth. No doubt politicians of every stripe walk in fear of the political crunch that comes with a no-economic-growth situation. But can they mean that there can be no social development program in the absence of substantial economic growth; that the rich will stay where they are and the poor will stay where they are?

I admit it is a conundrum for society, and for ourselves as politicians. Our country is struggling with severe economic problems, so severe that we have had to impose controls on prices and incomes to restrain the excesses of demand on our economy that come, in particular, from the economically powerful sectors of our society. Yet, I cannot forget that this new-found requirement for restraint of the relatively affluent is nothing new for the poor. They have always lived under economic restraint. Nor should any of us forget that our cause is the protection of the weak from the exploitation, however well intended, of the strong. And no group is more seriously ravaged by today's inflation and unemployment than the working poor.

I wonder if some senators have seen a musical play in the last few years called *Fiddler on the Roof*. In it, the milkman, Tevye, customarily gives two kopeks to a beggar. But Tevye this time has had a poor day, and feels he can only afford to give the beggar one kopek. The beggar complains, "Just because you've had a bad day, why should I suffer?"

Of course, the audience laughs. The truth of it seems simple on the surface. But is it so? As poor as Tevye was, he had a house, a cow, four daughters and a strong-willed wife. The beggar had nothing, and two kopeks were his poverty line. How much should the poor suffer because our economy is having a bad day? Is it wise that they should suffer more?

I am certain all of us agreed with Senator Croll when he said on May 19 last that we should not allow the current economic situation to be fought by the economic elite of

this country on the backs of the poor. That, of course, is on the one hand. As everyone who saw *Fiddler on the Roof* knows, there is always the other hand. The beggar may need help, but Tevye has every right to expect that the beggar will do everything he can to help himself as well. Government may be a provider of needs, but the notion of obligation must also be well understood.

We have seen increasing and justifiable concern in society that those who work not be ripped off by those who do not. Society is perfectly capable and willing to look after those who for medical reasons cannot do so themselves. There are specific programs for aged persons; survivors, including widows and orphans; children with parents; and the injured and disabled. What society rebels against supporting are those on welfare who can do more for themselves. I have looked hard for information about this group, and the only statistics I can find are estimates that in Canada and in the United States they comprise not more than two per cent of those on welfare. And clearly, those who rip off the system are not the working poor. As I have said, too often the contrary is the case for them.

Let me be clear that I entirely believe that the duties of citizens and the responsibilities of government must be in balance. The basic posture of federal social policy should be to maintain the viability of the concept of responsibility to work and to contribute on the part of the citizen as the fundamental tenet of the provision by the state of income and security.

This country's approach has been to provide some notion of basic standards of well-being for people as the goal of its social security system. We have never adopted, nor can I see any likelihood we will adopt, for Canadians the goal of imposing some measure of absolute equality of income between persons. I am satisfied that the basic standards approach is humanistic, realistic and substantively feasible. There is a base below which we will not allow Canadians to fall. The base must, however, be adequate to provide conditions of life that give encouragement to efforts for improved mobility in society. The working poor must be aided to become the working secure, or beyond if they have the ability. The welfare poor must be encouraged to become the working secure, or beyond if they have the ability.

I am fully prepared to concede that the elimination of poverty depends very crucially on the maintenance of a high and growing level of aggregate demand. That is to say, we must create new employment opportunities to make use of newly acquired skills. Policies to reduce the level of poverty require at the same time policies that bring about both economic stabilization and increased aggregate output. While we need to know a great deal more about poverty and the working poor, we can at least be certain that the unregulated market system of setting prices and values has not been successful in bringing into the system at an early enough time the investment in human capital which I have argued is so significant for our growth and stability.

Should there be any doubt raised by my words of concern for the poor, including the working poor, I say without qualification that Canada has assembled a social welfare system that stands with the best in the world. But nothing is proved by that alone—not so long as the National Council on Welfare, from the 1971 census, can tell us that 24.5 per cent of all children in Canada under 16 years are living in poverty; not as long as it appears that due to inadequate nourishment, health care and social environment these children are almost guaranteed to under-perform in society and to continue on the enlistment rolls of the poor. Apart from compassion, which should in our Judeo-Christian society be our prime basis for action, as modern economic man can we afford the costs in welfare and lost productivity that come from such an underutilization of such a large part of our future population?

[Senator Austin.]

● (2030)

I must, for balance, assure the Senate that the federal government and the provinces are maintaining their momentum in social policy, and much may be accomplished. Some, at least, of Senator Croll's concerns of last April 5 and May 19 are being dealt with.

In 1973 the federal government, in cooperation with the ten provinces, launched the social security review, which adopted as its foci five basic strategies—an employment strategy to provide for those who experience chronic difficulty in finding and maintaining employment; a social insurance strategy to protect Canadians against loss of employment income in case of retirement, sickness, disability, accident or maternity; an income supplementation strategy to ensure an acceptable minimum income for the working poor; a social services strategy to ensure that, over time, services would be available to facilitate the development of an individual's full potential; and, finally, a federal-provincial strategy to guarantee the harmonization of federal and provincial social security programs, while at the same time providing to the provinces the necessary flexibility to adapt social security measures to the needs of their citizens.

Two of the major accomplishments have been to improve the basic incomes of families with children, and of the aged. The new family allowance program, implemented in January 1974, provided an important supplement to the incomes of over 3.6 million Canadian families. Moreover, these payments now go to families on behalf of all children whether or not they attend school. This definitely benefits lower income working families where there is a higher risk of school dropout. The new program effectively tripled the benefits, which were in effect prior to the social security review, from an average of $7 per child per month to a current monthly average of $22.08. What is more, the allowance may be adjusted periodically to offset increases in the consumer price index.

Many of the advances in income security have taken place in programs for the aged, who at present number approximately two million of the Canadian population. In 1965 a retired couple was assured an annual income, at age 70, of $1,800. As of April of this year, the amount a retired couple is eligible to receive under Old Age Security/Guaranteed Income Supplement is $5,270—well above the 1975 poverty lines established by the Economic Council, Statistics Canada, and the Canadian Council on Social Development. Moreover, OAS/GIS payments are now escalated quarterly to reflect changes in the consumer price index.

A more recent development to alleviate financial hardship in families where one spouse is below retirement

age—those aged from 60 to 64—is the spouse's allowance under the Old Age Security Act. This provision supplies an amount equal to the OAS and maximum GIS payments where the spouse has no income, and where the income of the head of the household is the OAS and maximum GIS payments.

Another improvement is an amendment allowing those over 65 who are able to work to continue to do so, and receive their pensions under the Canada Pension Plan. There has also been an easing of provisions requiring collection of overpayment benefits to low income, aged persons.

Further changes have taken place in the Canada Pension Plan since the social security review commenced. These include a provision for equal benefits for male and female contributors to the plan, a formula to bring contributions and benefits more in line with rising wages, and a provision for annual adjustment of benefits to reflect increases in the cost of living.

I would not want to leave the impression that younger families are being neglected. Thus in 1973 the estimated amounts of federal, and, in some cases, provincial dollars going to families where the head of the household was under 65 years were: $1.85 billion for unemployment insurance benefits, $325 million for veterans' pensions and allowances, $300 million for workmen's compensation, and $136 million for CPP/QPP survivors' and disability benefits. A further sum of $768 million was expended on social assistance by federal and provincial governments under the Canada Assistance Plan. All of these programs are targeted to assist those who most need our help.

I am hopeful for the new developments which have been signalled. The government's proposed income support and supplementation program should serve as a valuable weapon in the fight against poverty. In fact, the income supplementation component of the program is geared specifically to the working poor and will provide assistance at a rate of something like $1 for every $3 earned. The concept behind this dual approach will meet a most important criterion—the provision of a strong incentive to economic and social betterment, together with adequate guarantees for those who cannot work. The approach currently under detailed consideration will ensure maximum efficiency and, hence, the least possible cost to others.

A further development emanating from the social security review has been the complete restructuring of the social service components of the Canada Assistance Plan. In the near future the Minister of National Health and Welfare hopes to introduce in the House of Commons a completely new social services act which will contain strong incentives to provide better rehabilitation and counselling services and encourage community-based alternatives to institutional care. His hope is to provide better service to the users of social services and at lower costs to government.

All this represents an impressive list of government attempts to eliminate poverty. Unfortunately, as Senator Croll has so ably pointed out, the total effort has not succeeded in eradicating poverty. As he has said, the pattern of income distribution has scarcely changed in the last 25 years. We still need to know to what extent all the various income transfer programs have actually kept families from skidding into poverty and enabled them to maintain their living standards. Research must be carried out to examine to what extent people in the lowest quintile are the same population or a changing one. We do know that the aged within the poor have gained ground by virtue of the guaranteed income directed towards them; unfortunately, similar information does not exist for the disabled, the handicapped or the infirm of all ages, or for marginal workers in the secondary labour market. As I have said, these are areas that must be further investigated and where we can look forward to continually improving policies.

Senator Croll has raised a very important issue concerning women in the labour force. On April 5 he stated:

> The income of the number of women in the work force has effectively helped to keep the basic wage low, while at the very same time boosting family incomes.

If I might comment further on this point, it may be suggested that traditionally women in the labour force have occupied low paying positions, not because of a lack of skills or capability but due to a built-in bias against female participation in the regular employment market. A special survey in the autumn of 1973 indicated that there were approximately 1.1 million working mothers in the labour force. Two-thirds of those mothers had husbands who earned less than $10,000 a year, and two-thirds of the mothers earned less than $5,000. The average annual earnings for women was less than $3,480 at the time when the average male earnings totalled $9,060. That difference cannot be fully explained by wage differential, because only 36 per cent of mothers worked full time. The question one asks is why? Was it personal choice? Was it their insecurity in the segregated labour market? Were they placed by agencies in short-term employment which could not be refused? Was it lack of adequate day care facilities? It was probably a combination of all of these. These are topics which require more detailed analysis in order to provide a true picture of the low income earner, many of whom are women.

The critical concern for all programs to assist the working poor is that in providing assistance to income, the incentive to participate as fully as possible in the working world is not discouraged. A proposal that has been gaining considerable ground in Canada is that of the guaranteed annual income. Simply put, the federal and provincial governments would, where necessary, pay a certain amount of money to every adult who qualifies so as to bring their annual income up to a minimum guaranteed level.

The key advantage of this plan is that it is selective. It puts money where it is needed, unlike the demogrant programs such as old age assistance and family allowances. Obviously, the administrative problems of using the tax system are complex, but the concept is intriguing and well worth developing.

● (2040)

According to a background paper issued by the federal government to the Federal-Provincial Conference of Ministers of Welfare earlier this year, the shortfall between private incomes and the updated 1974 Senate poverty lines for young family units—that is, where all family members are under the age of 65—is approximately $5.5 billion. Yet

in the estimates for the fiscal year 1974-75, over $7 billion is provided for programs directed to people under 65. There are, no doubt, many reasons for the apparent paradox. One may be that income supplementation such as unemployment insurance or family allowances are not aimed exclusively at the poor. Yet what is demonstrated is that we have much of the funds necessary to deal with poverty, but we apparently cannot yet solve the qualitative problems.

In the adult lifetime of Senator Croll and many other senators here, their highest priority has been to provide a basic level of social security to Canadians, without which the word "freedom" and its ideal would have no real meaning to the Canada which Canadians in this last quarter of the twentieth century enjoy. The social security system Canadians now have in place has strengthened our society in its democracy, and has helped make us a free society envied by most countries of the world.

Prime Minister Lester Pearson launched an aggressive war on poverty in the mid-1960s. Were he here today, I am certain he would not object to my charging him with launching an "aggressive war," because, though he was a notable and Nobel Prize peacemaker, he never accepted the injustices and immorality of any part of our population living in poverty, ill-health or dehabilitating circumstances, and his successors are no less committed to achieving the goals which Mr. Pearson's initiative and that of his colleagues, including Senator Croll, demanded.

Spending on health, welfare and old age pensions has quadrupled, from $2.4 billion in 1966 to a projected $10.9 billion in 1976. These programs amounted to 27.6 per cent of federal expenditures in 1966, and will be a projected 37.1 per cent in this fiscal year. I wish I knew the story well enough to tell Canadians more about the individual lives which have benefited from this effort, because the dollar amounts tell nothing of the human story, but I know, and I believe every adult Canadian knows, of many people whose lives have been uplifted by such concern on the part of their fellow Canadians.

In spite of our good record in the field of social services, in spite of the fact that we have reached a level of prosperity that promises the means to deal with poverty, in spite of the fact that it can be demonstrated over and over again that poverty is both an intolerable social cost and an intolerable economic cost, we still have people in our society who are doubtful that any more should be done, or who even claim that too much has been done already. The onset of a period of slow economic growth increases the courage of those who, for one reason or another, have never really accepted their responsibility to their fellow Canadians.

As people see their spending power diminish they become less concerned with the needs of others and more critical of having their earnings taxed away to help the disadvantaged. Government spending becomes more criticized, of course, by the high income earners, because the inarticulate premise is that government spending will be slanted to low income groups, and because with less growth there is less room to satisfy the expectations of both high and low income earners. The same is true when the relatively affluent labour unions denounce controls as interference with collective bargaining, or affluent business complains of interference with the free market.

Yet, despite such feelings, we cannot afford to leave the process of income distribution as it stands. It must continue to move in favour of the disadvantaged in our society. They must see and believe they are not abandoned and beached where they are. They must hope and care to change. We must provide the basis for that hope, and the encouragement for that change.

I will conclude with a quotation from an address by the Prime Minister of Canada, the Right Honourable Pierre Elliot Trudeau, to the Canadiana Conference in Toronto on April 2, 1976. He says it all when he says:

> For a Liberal, the only role of government is to create the conditions for, and to remove obstacles to, individual and collective freedoms. Laws and leadership are our weapons. Poverty, ignorance, inequality and the exploitation of the weak by the strong have always been our enemies.

Senator Flynn: Would the honourable senator tell me why he destroyed all the meaning of his speech by that last quotation?

Senator Austin: I cannot believe that Senator Flynn can think that last quotation does not apply equally to Canadians of all political persuasions.

Senator Flynn: That is not what Mr. Trudeau said. He claimed that only Liberals could think that way.

Senator Austin: No, he did not say, "Only;" he simply said, "For a Liberal."

On motion of Senator Petten, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, May 26, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Capital Budgets of the Atlantic Pilotage Authority, the Laurentian Pilotage Authority, the Great Lakes Pilotage Authority, Ltd., and the Pacific Pilotage Authority for the fiscal year 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-986, dated April 27, 1976, approving same.

Copies of report of the Canada Pension Plan Advisory Committee entitled "Analysis of Certain Proposals for Amending the Canada Pension Plan," dated April 1, 1976.

Budget Papers, dated May 25, 1976, as follows:

(1) Notice of Ways and Means Motion to amend the Customs Tariff.

(2) Notice of Ways and Means Motion to amend the Income Tax Act.

(3) Notice of Ways and Means Motion to amend the Income Tax Application Rules, 1971.

(4) Notice of Ways and Means Motion to amend the Excise Tax Act.

(5) Statement of Financial Transactions for 1975-76.

(6) Capital Cost Allowances.

(7) Charities under the Income Tax Act.

(8) Supplementary information on Compensation Aspects of the Anti-Inflation Program, small business deductions, air transportation tax, et cetera.

(9) Supplementary information on Government of Canada Accounts, Tables 1 to 7.

(10) Document entitled "Outlines of Proposed Modifications in Price and Profit Guidelines under the Anti-Inflation Act," dated May 25, 1976.

GOVERNMENT EXPENDITURES RESTRAINT BILL

DATE OF INTRODUCTION IN SENATE—FURTHER QUESTION

Senator Forsey: Honourable senators, has the Leader of the Government any information about the question I asked the other day concerning the prospects of our getting Bill C-87 some time before the summer recess?

Senator Perrault: Honourable senators, a meeting with the house leader in the other place was held this morning. As yet the number and nature of the bills to come before this house prior to prorogation is not known. I hope to have further information later.

CANADIAN LABOUR CONGRESS

SALARY INCREASES FOR OFFICERS—QUESTION

Senator Phillips: Honourable senators, I should like to direct a question to the Leader of the Government in the Senate. Last week the President and Vice-President of the Canadian Labour Congress voted themselves a $10,000 per annum pay raise. Is it the intention of the government to refer that 40 per cent pay increase to the Anti-Inflation Board?

Senator Croll: It is a non-profit organization.

Senator Flynn: Are you serious? I don't buy that.

Senator Perrault: I have noted with interest the alleged one-third increase voted to certain top officers of the CLC according to news reports. As yet I have no information that the matter will be referred to the Anti-Inflation Board to determine whether it conforms with the guidelines. I shall take the question as notice in the hope of providing more complete information later.

GRAIN

SUBSIDIES PAID ON SHIPMENTS OF GRAIN TO EASTERN CANADIAN PORTS FOR EXPORT—QUESTION

Senator Smith (Colchester): I should like to address a question to the Leader of the Government in the Senate, and perhaps in doing so I should apologize for not having given him notice. I realize it is not a question he would be expected to answer right off the bat. The question is: In view of the apparent decision of the government to do away with the subsidies paid in respect of shipments of grain to eastern Canadian ports for export, what was the capacity in the calendar year 1975 of those ports to handle grain for export? How much was paid in subsidies, and how much is it expected that this capacity will be utilized after the withdrawal of the subsidies?

● (1410)

Senator Perrault: As much as I would like to say I have that information at my fingertips, I must, because of its detailed nature, take the question as notice.

Senator Smith (Colchester): Yes. I should have given you notice.

Senator Perrault: Thank you very much. It is an important question.

ENERGY

GOVERNMENT POLICY RE CANADIAN OWNERSHIP OF COMPANIES DEVELOPING OIL AND GAS ON CROWN LANDS—QUESTION

Senator Manning: Honourable senators, a short time ago an honourable minister in the other place indicated it

was the government's intention that companies developing oil and gas on crown lands should be at least 25 per cent owned by Canadians, and that the requirement of Canadian ownership would probably be increased to 50 per cent at a later date. I ask the Leader of the Government: First, is this fixed government policy as at this date; and secondly, if it is, has a time frame been decided upon within which the Canadian ownership requirement will be increased to 50 per cent?

Senator Perrault: Honourable senators, I must take that question as notice.

Senator Flynn: That is a much better idea than listening to your neighbour on your left.

NATIONAL LOTTERY

PROPOSED INCORPORATION OF LOTO-CANADA—DEBATE ADJOURNED

Hon. Eugene A. Forsey rose pursuant to notice:

> That he will call the attention of the Senate to the proposed incorporation of Loto-Canada.

He said: Honourable senators, this inquiry arises out of a question which I asked the Acting Leader of the Government some days ago about the government's intentions in regard to bringing the matter of this new lottery before this house. I was unable to secure what seemed to me a clear or satisfactory reply, and so, having been the beneficiary of a suggestion by a distinguished colleague in this house—

Senator Flynn: Senator Croll, no doubt.

Senator Forsey: —I decided to bring the matter forward as an inquiry.

My question—it might perhaps be well to recall it to the recollection of the house. It was not a very earth-shaking one, and I do not expect honourable senators have kept it firmly in their minds, if, indeed, they have kept it in their minds at all. My question was, very simply, whether the matter was going to be brought before this house.

I turn to page 2103 of the Senate *Hansard* of May 11. I said:

> I should like to ask the Acting Leader of the Government whether it is the intention of the government to present a bill in this chamber or the other chamber, as seems to me to be the proper procedure, or whether it is going to proceed in some other way, as I rather gathered from the statement in the other place that it might—

The reply is to be found at page 2111 of our *Hansard* of the next day. In effect, the reply consisted of reading what the President of the Treasury Board had said in his statement in the other place. I read it, I read it again, and I could not find in that statement—and I still cannot find—any reference whatever to bringing this matter before the Senate.

I then looked again, carefully, at what had been said by the President of the Treasury Board in the other place, and I found on May 10, at page 13334 of the House of Commons *Hansard*, first of all, this:

> A new Crown corporation will soon be incorporated, pursuant to the provisions of the Canadian Commercial Corporation Act.

[Senator Manning.]

That last, of course, is a misprint which was subsequently corrected. It is the Canada Corporations Act that was referred to. Then that was supplemented by the statement that it would cost nothing to the Canadian taxpayer. The exact words at page 13335 are:

> Therefore, it will not cost anything to the Canadian taxpayers.

I am reciting these various statements in detail because they all have some bearing on the matter I want to deal with shortly. That looks as if there would be no appeal to Parliament to provide any money. This is not altogether consistent with what comes a little later.

Then I found also on page 13334:

> The House—

Presumably, therefore, the House of Commons because the minister was speaking in the House of Commons.

> The House will be given the opportunity before the end of June to express its opinion on the government's decision.

Then at page 13337 the minister said:

> —I would rather submit to the House a motion which would be debated during one day, and then we could have a vote.

And there had been some discussion of the possibility of a bill.

This raised certain objections in certain quarters in the other place, and on May 14, at page 13514 of *House of Commons Debates*, the President of the Privy Council, the Leader of the House of Commons, took a hand in the proceedings and his intervention does not seem to me to have clarified the matter very much. He said that he had

> —put before the House leaders the possibility of dealing with this matter through a supplementary estimate.

This pops up for the first time. He continued:

> Of course, this supplementary estimate would be referred to a standing committee where it could be discussed in detail. Members of the opposition could, if they wished, bring that supplementary estimate before the committee of the whole on an opposition day and cross examine the minister in whatever way they wanted. For example, we are prepared to have a day when the appropriation bill is before the House—

Senator Molson: Does my honourable friend not think it is out of order to discuss in this chamber matters that are currently being debated in the other place?

Senator Forsey: As I understand it, Senator Molson, we are allowed to quote from ministerial statements. These were ministerial statements, as I understand it, by the minister on this matter. I am sorry if I am transgressing the rules, but I certainly thought it was part of the ministerial statement. However, the point is—and I shall cease to quote from this at all—the point is that in all this there was not the slightest reference to the Senate and if the matter is to be brought in by way of a supplementary estimate in the other place, how we shall be able to deal with it effectively here is beyond me. A mere supplementary estimate presented there, there may be opportunities to debate there in the way in which the President of the Privy Council suggested, but I don't know how we can

effectively debate a supplementary estimate item like this here. I speak subject to correction. It is possible that some senator, learned in the rules and with longer experience and greater knowledge than I, can provide a solution to this problem, although I am heartened to know that the Leader of the Opposition appears to agree with me that it would be at least very difficult to deal with the matter here in that way. I think it would be quite impossible.

Senator Flynn: Honourable senators, on a question of privilege, I do not think that the honourable senator should interpret my gesture as meaning that. On the contrary, I would say that it is very easy to have some reservations, such as those of Senator Molson, as to the propriety of the manner in which this matter is brought before us. In any event, I always enjoy Senator Forsey's speeches so much that I will not raise a formal point of order.

● (1420)

Senator Greene: Honourable senators, might I suggest that the view of the Honourable Leader of the Opposition would be of very small weight in its authority.

Senator Flynn: Quite so; especially if you add yours to mine.

Senator Forsey: If the gladiators have finished, perhaps I might be able to go on.

In effect, it seems to me that we got basically nothing in the way of any assurance from the Deputy Leader of the Government in this house the other day, or from ministers in the other place, that this matter will be brought before the Senate in any form whatsoever on which we can pronounce effectively. There is, of course, the bare possibility of a bill, but the discussion in the other place seemed to make it quite clear that this was exceedingly unlikely.

I noticed in the remarks of the Deputy Leader of the Government on May 12 at page 2111 of our *Hansard* what seemed to me a very, very curious observation. First of all, he said:

> If it is a mere motion—

That is, a mere motion in the other place.

> —I doubt that that should come to this place. However, the matter is still open to discussion in the other place—

A little farther down the column he said:

> So it all depends on the method adopted by the House of Commons. Apparently there will be a meeting of the leaders of the other house and then the government will make its decision. Whatever that decision is, the government will have to abide by the rules of Parliament.

That is what *Punch* used to call another glimpse of the obvious. The deputy leader continued:

> Obviously, therefore, if the measure needs the approval of the Senate it will surely come to the Senate. If it is a mere motion, then I doubt that such a motion will have to come to this place.

Well, of course, it would not have to come to this place and that is one reason why I asked the question. If there is to be a mere motion in the other place, it would not have to come here. I wanted to find out whether we would have an opportunity in this place, and apparently the answer is that it all depends on the other house. Well, that strikes me as a very curious attitude to take up with regard to the procedure in this place. Does the House of Commons decide what the government will present in the Senate? That is a novel doctrine to me and I do not think it is a very flattering doctrine to this house.

Before I go further, I want to say that if I can get now a plain, firm, unequivocal assurance that if there is no bill brought in to deal with this matter the government will present a resolution in the Senate which will give us the chance of pronouncing our views on this matter well before the end of June, then I am quite prepared to withdraw this inquiry. What I want is to have the Senate get a chance to pronounce on this subject. If it is not going to be given by the government the proper chance to pronounce on the subject, then I propose to go on and discuss it now, because I think it is a most important subject and I think there ought to be some means of at least ventilating the opinions of some senators, myself at any rate, on this subject before the whole business crystallizes, or gels, or takes a firm form, or this extraordinary new departure in fiscal policy becomes a settled part of our national financial system.

So, if now the leader or the Deputy Leader of the Government is prepared to give a firm, clear, plain, unequivocal assurance that the matter will come before the Senate in a form in which the Senate can discuss and pronounce on, I will sit down with great satisfaction and allow the house to proceed with business which, in principle perhaps, is of more importance. But if that assurance is not forthcoming, and I see no sign of the government leader or his deputy rising to give the assurance, then I want to go on and say something about this. This is an important question in my judgment.

Senator Perrault: Would the honourable senator allow me, just by way of reply, to suggest that there is no inclination on the part of the government here to prevent him from proceeding with his inquiry? If he wants to speak at length on this subject, that is the honourable senator's right. As soon as the method by which the government intends to proceed is made known in the other place, that information will be duly communicated.

Senator Forsey: I thank the Honourable Leader of the Government, but I don't know that that adds very much to my calm of mind, shall I say, or my enlightenment. It seems to me—of course he doesn't want to prevent me from discussing it; I never suggested that; he can't prevent me from discussing it; he can't prevent any honourable senator from discussing anything that he sees fit, as long as we keep within the rules—but the point is—

Senator Perrault: The honourable senator said he would be prepared to withdraw his inquiry. There is no need for him to withdraw his inquiry.

Senator Forsey: No, no. I was giving the government an opportunity to say something that would make it unnecessary for me to proceed. The government doesn't see fit to do that. All right, that's fine. All these interruptions, I might add, are prolonging my observations quite considerably and I should be grateful if I might be able to go on without too many more of them.

It seems to me a matter of great importance, a matter on which we should be able to pronounce, not merely express ourselves. I can express myself, and any other honourable senator who feels as I do about it, or who feels the opposite way about it, can also express himself. But what there ought to be is a chance for the Senate to pronounce its views on this new departure on fiscal policy.

I am almost inclined to call it a revolutionary new departure in fiscal policy, because the proposal is not simply for a temporary lottery, though certain remarks in the other house at certain points seemed to suggest that. But it is perfectly clear, if you read the ministerial statement, that this is an open-end lottery. It is to go on indefinitely. For the first three years the proceeds will be divided in such and such a way. After that, well, there will be discussions with the provinces to see how the further proceeds will be divided.

This is a permanent proposal. This is to be a permanent feature of our fiscal system. If it were simply a matter of picking up the pieces after the Olympic Games, or even looking after the Commonwealth Games, and the whole thing were to come to an end in 1979, I shouldn't like it, I should think it was a bad proposal, but I would be prepared to stomach it under the special conditions which exist. But a permanent proposal of this sort is something else again. For one thing, as has been pointed out elsewhere, it may very easily embarrass the provinces which have themselves embarked in a number of instances on this very dubious method of financing.

For another thing, a lottery, as my old assistant at the Canadian Labour Congress used to say, is a method of skinning the poor. It is regressive taxation, and it is worse than regressive taxation: it is an attack, you might say, upon the gullibility of the poor.

A colleague has handed me a most delightful set of verses written by Henry Fielding in 1732, which pretty well sums it up:

A lottery is a taxation
Upon all the fools in creation;
And heaven be praised,
It is easily raised,
Credulity's always in fashion,
For folly's fund will never lose ground
While fools are so rife in the nation.

This is a new departure in our fiscal policy. This is a proposal for a permanent lottery which could then be used for any kind of proposition, any kind of project, any kind of expense which the government of the day, of whatever party it may be, sees fit. It might even be used to provide the armed forces with aeroplanes. It might be used for all sorts of things, and without any kind of proper decision by the two Houses of Parliament.

I might add also that the whole idea of this lottery, this permanent lottery, sits very ill with the new society which the Prime Minister has spoken about and which I ardently support. It seeks to raise money by a method which excites all the appetites, which the new society presumably wants to restrain.

[Senator Forsey.]

• (1430)

Well, I shall conclude simply by saying that the end of this policy is bad and the means are worse. The means are an affront to Parliament, a defiance of Parliament; a defiance and an affront, at all events, to this house, unless we get some kind of undertaking that whatever they do in the other house, it will be brought before us. If a proposal is brought to us for our approval, I shall vote against it, and do my best to persuade all my friends in this house to do the same.

Hon. J. J. Greene: Honourable senators, I rise merely to commend Senator Forsey for the strong stand he has taken in this matter. Since my arrival in this place, I have found a tendency in far too many honourable senators towards self-immolation which, in the Buddhist faith, may be a sure and quick way to heaven, but not so in a parliamentary democracy. We whittle away at our own rights and privileges, almost apologizing for existing. Thank goodness Senator Forsey has risen in his place to demonstrate clearly that we have a parliamentary representative government and a bicameral parliament, of which this place is an integral part, and that no government, however right it may be, should achieve its purposes, however necessary they may be, without considering the rights and responsibilities of this part of the legislative process.

On the subject matter itself, I have some sympathy with Senator Forsey's views. It was one of my earliest chores in the other place to speak, during private members' hour, on the subject of lotteries. At a time when a private member on the government side had very little other opportunity to practice his parliamentary skills, private members' hour was a refuge for those of us who were attempting to become parliamentarians. Incidentally, a private member's bill was proposed by a member of the New Democratic Party, one of those noble souls who is always with the angels, and as a result of my research into the subject matter, on which I worked very hard, my conclusion was that lotteries constituted the most inefficient and regressive manner of collecting taxes.

I certainly hope and believe that the government, in its wisdom, will see to it that both parliamentary halves of our body politic will have every opportunity to debate the subject. I commend Senator Forsey for his stick-to-itiveness in bringing this matter forward so forcefully and seeing to it that this house is not treated as a mere rubber stamp, or not considered at all, in proceeding with so important a matter as this.

Senator Perrault: Honourable senators, there is no intention on the part of the government to treat this august chamber as a rubber stamp. I can only reiterate that as soon as the method by which the government intends to proceed is known, that information will be communicated to honourable senators and an opportunity will be given for the kind of fair and complete debate which is usually undertaken in this chamber in connection with measures of all kinds.

I remind honourable senators once again of the statement made by the President of the Treasury Board, as reported at page 13337 of *House of Commons Debates* of May 10, in which he said:

Mr. Speaker, it depends on the formula the leaders of all parties would endorse to have a debate on that motion. Substantially, it is the same bill that we had in the past, except that for the next three years, it will be under federal government control and that under the Corporations Act and the Criminal Code, we could create a Crown corporation without having to pass legislation.

However, there are many ways to put forward this project for the approval of the House and I am sure the President of the Privy Council (Mr. Sharp) will have discussions with his counterparts of other parties. We could even proceed by a budget item, if needed, but I would rather submit to the House a motion which would be debated during one day, and then we could have a vote. Or we could accept the suggestion that the opposition leader (Mr. Clark) kindly put to us, that is adopt a bill after all stages in two days.

Well, if that final course of action is followed, then necessarily the measure will come to this place.

Senator Forsey: If!

Senator Perrault: As Leader of the Government in the Senate, I want to give the commitment that I will make every representation to ensure that our traditional right to duly consider and adjudge all such proposals is respected. There has not been any suggestion in this entire discussion about the merits or demerits of Loto-Canada that the Senate not be allowed to participate in the dialogue.

Senator Grosart: Does the Leader of the Government know whether a decision has been made or announced to the press or Parliament about the method that will be adopted by the government in seeking the authority of Parliament to proceed with this lottery?

Senator Perrault: I can only say again that discussions are apparently under way with the leaders of the other parties. A method is being evolved, and as soon as information is available I shall, as I have said, make a statement in this chamber, if honourable senators would have me do so. I have checked as recently as half an hour ago to find out the latest information on how discussions and negotiations are proceeding, I may say that there is no change from the position taken on May 10 last, as expressed in the quotation I have given honourable senators from what was said by the Honourable Jean Chrétien. However, as soon as information is available I shall on that very day make known to honourable senators the method by which the government intends to proceed.

Senator Forsey: I hope I may be allowed to thank the Leader of the Government for giving the assurance he just has, that the matter will be brought before the Senate in some form or other for the expression of our opinion on it. If that had been said a little earlier it might have spared the chamber a considerable amount of second-rate eloquence.

Senator Perrault: I certainly did not express an assurance of that kind. I simply said that there will be an opportunity for a full discussion of this matter. Until I know how the government intends to proceed I can give no assurances at all.

Senator Grosart: Honourable senators, I think what alarmed Senator Forsey was the answer he was given when he asked his original question. Perhaps his question was not understood. In essence what he was asking, as I understood it, was: If the government proceeds in a certain manner in the House of Commons, will it proceed in the same manner in the Senate? The reference here, of course, is to the authority that the government seeks to implement this new policy.

The President of the Treasury Board said he might proceed by way of a budget item, which would, of course, be by way of a supplementary estimate. I would point out, if the Leader of the Government is giving advice on this matter, that the Standing Senate Committee on National Finance has recommended over and over again that this is not a proper way to introduce government policy—that is, by a vote or a $1 item in the supplementary estimates. There are times, in emergencies, when it appears to be necessary, but if there are other alternatives I hope the government would not seek to proceed by this back-door method of implementing government policy.

Obviously it is the authority that Senator Forsey and others are concerned about. Is it to be the authority of a mere resolution in the House of Commons? Is this to be the authority for a major change in government policy? I think the answer Senator Forsey would have liked, and which I would like, is that if the authority is sought by the government from the House of Commons by a resolution then similar authority will be sought from the Senate by a similar resolution. If the government decides to proceed by way of a bill then, of course, there is no problem. The bill will automatically come to us.

● (1440)

It is true that if the government decides to proceed by way of a supplementary estimate, that matter will come before us, but it is not customary for us to examine supplementary estimates item by item in the chamber. We are all aware that supplementary estimates are referred to the National Finance Committee, and the committee makes its report. It might or might not report on an item such as this. However, I would agree with the Leader of the Government that regardless of whether that is so or not, when the report of the National Finance Committee and the particular appropriation bill are before us there will then be an opportunity to debate the matter.

The point is an important one, that whatever authority is sought by the government, it should in the clearest possible terms also seek the authority of the Senate.

Senator Perrault: Honourable senators, I shall undertake to make a statement about this matter at the earliest possible opportunity after analyzing the entire subject and the questions posed by honourable senators. However, I have given the latest report according to the information I have, and that is all I can say at the present time.

On motion of Senator Hicks, debate adjourned.

CRIMINAL LAW

INTERIM REPORT OF THE STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS—DEBATE ADJOURNED

Hon. H. Carl Goldenberg rose pursuant to notice:

That he will call the attention of the Senate to the Interim Report of the Standing Senate Committee on Legal and Constitutional Affairs on the subject matter of the Bill C-83, intituled: "An Act for the better protection of Canadian society against perpetrators of violent and other crime," tabled in the Senate on 13th May, 1976.

He said: Honourable senators, in tabling the report of the Standing Senate Committee on Legal and Constitutional Affairs on May 13, I suggested that we might defer consideration of the report until the bill reaches the Senate, after passage in the other place. It has been suggested to me, however, that it would be wise to consider it at this stage even though the report is an interim report.

I want to emphasize that the Senate referred to committee for study the subject matter of Bill C-83, entitled "An Act for the better protection of Canadian society against perpetrators of violent and other crime." The committee made a preliminary study of the bill. It did not make a clause-by-clause study because it will do so in due course, if and when the bill comes before the Senate. The committee, therefore, confined itself to a number of particular points.

I would point out that we are dealing with a bill which covers a good deal of ground. It deals with such matters as firearms and other offensive weapons, invasion of privacy through the interception of communications, dangerous offenders, special crime inquiries, amendments to the Parole Act, and so on. The committee did not cover all this ground but dealt with a number of items on which we thought our opinion would be of interest. The Minister of Justice, as a matter of fact, asked me to send him a copy of the recommendations of the committee as soon as possible.

It will be of interest to honourable senators to know that the house committee, which is still studying this bill, has published the report of the Senate committee as an appendix to its proceedings of Tuesday, May 18.

In fairness to the members of the committee, I should also say that while we make this interim report, it does not mean that the committee has approved or disapproved the bill. Honourable senators should bear in mind that what we are recommending is further consideration or re-examination of some items in the bill.

The bill deals, first, to a large extent with firearms and other offensive weapons. The committee notes that some parts of the bill dealing with firearms would add to the Criminal Code provisions that are regulatory and administrative rather than provisions of a criminal law nature, for example, the establishment of a licensing system and provisions relating to such matters as the carriage, the handling and the storage of firearms. The committee questioned whether such provisions properly belong in the Criminal Code.

In this connection the committee relied upon a recent report of the Law Reform Commission of Canada in which it says:

> If criminal law's function is to reaffirm fundamental values, then it must concern itself with "real crimes" only and not with the plethora of "regulatory offences" found throughout our laws. Our Criminal Code should contain only such acts as are not only punishable but also wrong—acts contravening fundamental values. All other offences must remain outside the Code.

We preface our report with this quotation and question the desirability of including some of the provisions relating to firearms in the Criminal Code.

We then deal with use of a weapon during the commission of an offence. It will be an offence under the bill to use a weapon during the commission of a crime. The committee was also concerned, however, with the possibility that serious consequences may result when a person is in possession of a weapon during the commission of an offence, whether or not he intends to use it. Therefore, we recommend that consideration be given to amending the proposed new section of the law by adding the provision:

> —that anyone who has upon his person an offensive weapon while committing or attempting to commit an indictable offence or during his flight after committing or attempting to commit an indictable offence, whether or not he intends to use it to cause bodily harm to any person, is guilty of an indictable offence and is liable to imprisonment for five years or is guilty of an offence punishable on summary conviction.

The committee also recommended that it be further provided in the proposed new section 98:

> —that where one of two or more persons, with the knowledge and consent of the rest, has an offensive weapon upon his person while committing or attempting to commit an indictable offence or during his flight after committing or attempting to commit an indictable offence, it shall be deemed to be upon the person of each and all of them.

[*Translation*]

We also considered the use of weapons and the best I can do is to read our recommendation:

> Your Committee recognizes that the practice of using and storing firearms varies greatly in different regions of the country. In those areas where firearms are part of the everyday life of the residents, the use of firearms is accompanied by a knowledge of, and respect for, their dangers. In such regions it may be both difficult and unnecessary to take the precautions that in other regions, particularly in urban areas, would be reasonable and desirable.
>
> It is, therefore, recommended that consideration be given to amending the proposed new subsection 99(2), in clause 3 of the Bill, by adding thereto a requirement that local circumstances, traditions and practices be taken into consideration by the courts when determining whether a firearm or ammunition has been used or stored in a careless manner or without taking reasonable precautions for the safety of other persons.

[*English*]

● (1450)

The committee also dealt with a highly controversial provision of the law, which brings us back to an earlier debate in the Senate and to a controversy between the Senate and the House of Commons. There is a provision in the law now requiring notification to a person who has been the object of an intercepted communication within 90

days following the period for which authorization to intercept was given.

Honourable senators will recall that the Senate rejected such a provision in the protection of privacy legislation which was introduced and passed just over two years ago. But we were overruled; the other house refused to accept our amendment. Now the bill before us, curiously enough, proposes what the Senate wanted at that time. The bill proposes the elimination of the requirement of notification to someone who has been wiretapped.

Well, our committee has modified its position this time, and, considering the experience with authorization for wiretapping and related factors, the report says that the provision requiring notification should not simply be repealed but proposes instead that it be replaced by a provision that would ensure that the required notification does not interfere with proper investigation by law enforcement authorities of the activities of organized crime and professional criminals. We were told when we first studied this matter some two years ago that such notification hinders the police in their investigation of organized crime because they are not necessarily able to complete such an investigation within 90 days, or, for that matter, sometimes within 180 days or within months or even longer than that.

As a compromise—and I think the members of the committee will agree with me that that is what it is—the committee recommends that consideration be given to a provision that would amend the clause of the bill to which I am referring to permit a judge to grant one extension not exceeding 90 days of the period within which notification is required, and to permit two judges to grant any additional extensions of that period or to eliminate entirely the requirement for notification. This introduces a novel idea. We felt that it would protect both the interests of the public vis-à-vis organized crime and the rights of the citizens.

I have told you that the bill also deals with dangerous offenders. That is a new term which will replace the terms previously used, "habitual criminals" and "dangerous sexual offenders." The committee draws attention in its report to a new section which provides that where a person has been found to be a dangerous offender and has been sentenced for an indeterminate period, the case will be reviewed by the National Parole Board within three years after the person was taken into custody and thereafter not later than every two years in order to determine whether the person should be granted parole. In its preliminary study the committee saw that under this provision, where a sentence has been imposed for an offence and the minimum period that must be served before eligibility for parole is longer than three years, it is possible for the person who was convicted of the offence and who was found to be a dangerous offender to be released sooner than another person who was convicted of the same offence but who was not found to be a dangerous offender. The committee therefore suggests in its report that consideration be given to an amendment to the bill that would provide that where a person has been convicted of an offence and has been found by the court to be a dangerous offender, that person would be required to serve a determinate sentence for the offence followed by an indeterminate sentence as a dangerous offender.

The committee also recommends a further amendment to provide that where a person has been sentenced to an indeterminate period as a dangerous offender the National Parole Board shall, for the purpose of determining whether such person should be granted parole under the Parole Act, review the case not later than the end of the period required to be served for the offence for which the person has been sentenced before becoming eligible for parole, or three years, whichever is the longer. This is to prevent a person convicted of an offence but not found to be a dangerous offender from serving a longer term before he is eligible for parole than a person who has been convicted of the same offence and found to be a dangerous offender. I think this is an important correction that should, and I hope will, be made in the bill.

[*Translation*]

There are also transitional provisions in the bill.

> Your Committee is of the opinion that because of the significant differences between the present law in respect of habitual offenders and dangerous sexual offenders and the provisions in Bill C-83 in respect of dangerous offenders, a review should be carried out with respect to all such offenders who are at the present time in custody under sentences of detention to determine which inmates do not fall within the terms of the description of a dangerous offender in paragraphs 688(a) and (b) in clause 23 of the Bill. Such inmates should be released if they have served a reasonable period of time in prison for the offences they committed.

[*English*]

● (1500)

The committee also noticed that a transitional provision in a proposed new section of the Parole Act is intended to provide for the application of regulations at different times in various provinces, as and when those provinces set up, or appoint, provincial parole boards, as provided for in the act.

The committee was rather concerned about the discriminatory effects of this, in that persons in different provinces would be treated differently, because in one case a provincial parole board would have been set up, while in another such a board would not yet have been set up or would not yet be functioning. The committee therefore proposed that the new subsection dealing with this be amended so that its effect would be limited to the period of time, and the circumstances, for which it is intended. The committee added that it would be undesirable, and could be discriminatory, if a regulation governing parole were to be applied after the transitional period to inmates in certain regions of the country, and not to inmates generally in all parts of the country.

We have two further points in this report, both dealing with parole. Clause 25 of the bill says:

> 11. Subject to such regulations as the Governor in Council may make in that behalf, the Board is not required, in considering whether parole should be granted or revoked, to personally interview the inmate or any person on his behalf.

The board, however, could make regulations prescribing the circumstances in which an inmate is entitled to a hearing upon any review of his case for parole. Your committee came to the conclusion that consideration should be given to amending this clause by adding a provision that would give an inmate the right to a personal interview following his application for parole to the National Parole Board at the time that he first becomes eligible for parole.

Finally, the committee noted that the National Parole Board will no longer be permitted, where special circumstances exist, to grant parole by exception to an inmate before the inmate's eligibility date has been reached. By regulation the board can now grant parole by exception. It has done so only in a very small proportion of the cases, but an example cited to us was that of an inmate who has qualified for admission to university. If the term of that university opened in October, and he would not qualify for parole until November, the board could, in those circumstances, grant parole by exception. It is now proposed to eliminate this. The committee, however, expressed the opinion that the National Parole Board should retain this right, which, although exercised infrequently, permits flexibility in those situations where parole by exception is warranted.

This, in summary, is the report of the committee. I repeat, it is an interim report following a preliminary study. The committee did not hear outside witnesses. The only witnesses heard by the committee were officials of the Department of Justice, of the Solicitor General's department, and of the National Parole Board. We did not think that at this stage we should hear witnesses who are appearing before the committee in the other place. When the bill comes before us, if it comes before us, we shall reserve our right to hear the same and other witnesses.

Senator Smith (Colchester): Honourable senators, in a moment I shall move the adjournment of this debate. I should just like to say that I was a member of the committee and concurred in the report, so that I am not likely to take any position in opposition to it. There may, however, be a few points that I should like to draw to the attention of the Senate. With those few remarks I now move that this debate be adjourned.

On motion of Senator Smith (Colchester), debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, May 27, 1976

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

Prayers.

CLERK'S ACCOUNTS

STATEMENT TABLED PURSUANT TO RULE 112

The Hon. the Speaker informed the Senate that, in conformity with rule 112, the Clerk of the Senate had laid on the Table a detailed statement of his receipts and disbursements for the fiscal year 1975-76.

REFERRED TO COMMITTEE

Senator Langlois: Honourable senators, I move:

That the Clerk's accounts be referred to the Standing Committee on Internal Economy, Budgets and Administration.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Minister of Finance respecting Olympic coins for the six months ended March 31, 1976, pursuant to sections 13(1) and 13(3) of the *Olympic (1976) Act*, Chapter 31, Statutes of Canada, 1973-74.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Senator Sparrow, Deputy Chairman of the Standing Senate Committee on National Finance, presented the report of the committee, to which was referred the Estimates laid before Parliament for the fiscal year ending March 31, 1977, and asked that the report be printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings* of today and form part of the permanent record of this house.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see appendix pp. 2173-2175*).

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

Senator Sparrow moved that the report be taken into consideration at the next sitting of the Senate.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1) (g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, June 8, at 8 o'clock in the evening.

Honourable senators, I should like to give a brief explanation of the adjournment motion. In moving the adjournment of the Senate to June 8, it has been taken into consideration that there is no legislation at present before the Senate and it is unlikely that we will receive any bills from the other place before the end of next week. However, several committees will be sitting next week.

On Tuesday the Foreign Affairs Committee will meet at 10 a. m. on Bill C-20, respecting citizenship. The Legal and Constitutional Affairs Committee will hold an *in camera* meeting at 2.30 p.m. to consider its report on conflict of interest. The Special Joint Committee on the National Capital Region has called a meeting for 3.30 p.m., and the Standing Joint Committee on Regulations and other Statutory Instruments will meet at 8.30 p.m.

On Wednesday the Banking, Trade and Commerce Committee will meet at 9.30 a.m. to hear witnesses on Canadian textile problems. If necessary, the committee will sit again at 2.30 p.m.

On Thursday the Banking, Trade and Commerce Committee will have another meeting on Canadian textile problems at 9.30 p.m., the Standing Joint Committee on Regulations and other Statutory Instruments will meet at 11 a.m., and the Special Joint Committee on the National Capital Region will meet at 3.30 p.m.

We hope that when we return on June 8 we will have received one and possibly two bills from the other place. We will be debating a number of items on the Order Paper, including the report presented today on the estimates by the Deputy Chairman of the National Finance Committee.

Motion agreed to.

● (1410)

THE SENATE

TAILORING SERVICES—QUESTION

Senator Argue: Honourable senators, I should like to ask a question of the Whip, if I may.

Senator Flynn: The Whip?

Senator Argue: The Whip.

Senator Flynn: Do you mean the government Whip?

Senator Argue: Yes, one of the two Whips.

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

Hon. Senators: Agreed.

Senator Argue: I might preface my question by saying that for many years there has been a long-standing service available to senators, namely, the use of the tailor on a joint basis with the House of Commons for pressing suits and making minor repairs, and so on. Yesterday I sent a couple of suits to the tailor to have them pressed. They were brought back by a messenger who said, "He doesn't have the time." So I sent them back and said, "I have lots of time; he can take his time; there is no hurry." Again the messenger came back and said, "Oh, the tailor says he is no longer doing anything for senators."

This is a service that has been available to senators for many years, as I have already said, and I do not think we should agree to be elbowed out of this service. I think it is of some benefit to the Senate. We pay for the cost of the service so we are not on the taxpayers' back. I wonder if the Whip might inquire into this to see if this service can be continued.

Senator Flynn: I am sorry I gave leave. There is no doubt whatever that this subject does not concern the Whip and it should not concern the Senate.

Senator Perrault: It is a pressing issue just the same.

Hon. Senators: Oh, oh!

Senator Petten: Honourable senators, while it may not be my particular job to look into this question, I shall nevertheless endeavour to find out what the situation is and give a satisfactory answer.

Senator Argue: You can check with the Whip on the other side.

Senator Flynn: It has nothing to do with the Whips.

Senator Grosart: It is just a hang-up.

Senator Perrault: Well, as my honourable colleague indicated, we hope that the situation can be ironed out very shortly.

AIR TRANSPORT

FLIGHT DELAYS DUE TO LABOUR DISPUTE—QUESTION ANSWERED

Senator Perrault: Honourable senators, recently I was asked by the Honourable Senator Phillips a question about wage settlements with personnel of the Ministry of Transport. Senator Phillips stated in part:

> I refer, in particular, to inspectors who are responsible for aircraft maintenance and renewal of pilots' licences. Can the leader tell us how many flights, both national and international, have been delayed or cancelled because of invalidated pilots' licences?
>
> Secondly, it has been the normal custom of airlines to protect scheduled passengers who have had their flights either delayed or cancelled, by giving them priority on the next flight two or three hours later. Are the airlines following this practice during this labour dispute?

In reply to the first question, one national flight has been delayed at Winnipeg, Manitoba—I can attest personally to the accuracy of that statement—but no international flights have been delayed and no national or international flights have been cancelled because of actions taken by inspectors of Transport Canada concerning pilots with invalid licences.

In reply to the second question, Transport Canada does not have the information as to how under these circumstances airlines protect scheduled passengers who have had their flights either delayed or cancelled. I should imagine that that information would be available from the individual airlines which serve the Canadian interests. If the honourable senator would like me to do so, and if it is possible, I shall undertake to contact the airlines individually in order to ascertain the policy.

Senator Phillips: Thank you.

NATIONAL LOTTERY

PROPOSED INCORPORATION OF LOTO-CANADA—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the inquiry of Senator Forsey calling the attention of the Senate to the proposed incorporation of Loto-Canada.

Hon. Henry D. Hicks: Honourable senators, at the outset I should like to express my virtually complete agreement with the position taken in respect to Loto-Canada by the Honourable Senator Forsey, who introduced this inquiry, and by the Honourable Senator Greene, who spoke to it during yesterday's sitting. There are, as Senator Forsey pointed out, two aspects of this problem of concern to the Senate. The first is the method or device by which the Government of Canada intends to perpetuate the lottery which we all felt was initiated as a means of helping to support the Olympic Games being held this year in Montreal. It now appears that we could be embarked upon establishing what would be a national lottery which would go on indefinitely. As I say, the first issue has to do with the method the government proposes to use in order to do this. There may be some devices available to the government by way of incorporation of a company, by way of adding items to the budget, and so on. However, it seems to me that this does constitute such a major change in policy, if not an actual change in the law of the land, that it ought to be embodied in a bill which both Houses of Parliament should have the opportunity of debating and adjudicating. I hope, therefore, that this will be done.

I noted carefully the reply of the Leader of the Government in the Senate to Senator Forsey's invitation to give some assurance that the issue would be brought before this house. His reply was merely to the effect that he would, as soon as he could, report to this house on the decision which the government had made. Of course, if that is a decision to proceed in some way other than by a bill or other than by some device that brings the issue before this chamber, then we will not have another opportunity to speak upon it or to vote for or against the proposal. I hope, therefore, that the government leader will use his influence to see that this matter is handled in such a way that members of this house may have the opportunity of debating the issue and voting on the feasibility and the terms under which an extension of the Olympic lottery may be agreed upon and perhaps, as I say, grow into a continuing national lottery.

The other issue, of course, has to do with the merits of lotteries generally. I must say that I am not very enthusiastic about these devices at all, myself. I am not

very enthusiastic about the holding of lotteries generally and I am certainly not enthusiastic about the use of a lottery to raise revenue by governments, into which this could very rapidly grow.

It seems to me, as has been pointed out by others, that this is, indeed, a regressive mode of taxation, that it takes advantage of the gullible and, very often, of those who can least afford to pay. It is not really a dignified or stable method of raising revenue in a country such as Canada. Indeed, I am afraid that I myself feel that there is something inherently immoral about a lottery, because it tends to make people feel that the way to succeed is by luck rather than by hard work or application, and so on. I suppose it is unpopular today to refer to the Protestant work ethic, but I happen to have been brought up in a background in which this was highly valued and I still think that it has some value, even within the standards of the society in which we live today. It seems to me that we should not as a nation and as a national government encourage people to think that the way to success is by luck rather than by hard work or application or by the intelligent use of the talents that God has given to each and every one of us.

Therefore, I suppose I have disclosed my position now and said, in effect, that I would vote against legislation that would establish a continuing national lottery. I hope, honourable senators, that I may have the opportunity of doing just that.

● (1420)

Hon. Frederick William Rowe: Honourable senators, Senator Hicks has expressed very cogently and eloquently my own views and, I imagine, those of a good many of my colleagues. I shall summarize my approach to the subject very briefly.

Let me say, first, that I am not sure, and I suppose no one else in the Senate is, what exactly is envisaged in the proposed incorporation of Loto-Canada. If, as Senator Forsey suggests, it is possible that the lottery could go on indefinitely, that gambling would become part of our national policy, then I suggest we should approach this matter very cautiously. There should be no back door approach. It should not be done without full resort to the parliamentary process, which means complete and full debate in the Parliament of Canada, including the Senate. Since we have reason to believe that significant numbers of Canadians are opposed on principle to gambling, we would be well advised not to rush into this matter. We should have a full and complete expression of public opinion on it.

As Senator Hicks said, there are some fundamental religious beliefs involved here. I have always opposed, and will continue to oppose so long as I live, any attempt on the part of religious groups, large or small, to force their particular views down the throats of people on any subject, whether it be pornography, the use of alcohol, birth control, abortion, or any other important issue. However, we should recognize that in all religious groups in Canada there are adherents who have very strong views on gambling.

No matter how much sympathy and concern we might have for the predicament brought about by our involvement in the Olympics—I use the word "our" deliberately—we should not allow ourselves to be stampeded or seduced into some fundamental change in national policy. Therefore, I completely support the demand—not merely a suggestion—made by Senator Hicks and by Senator Forsey, as members of the Senate of Canada, that the whole matter be debated openly and that sufficient time be allowed for full expression of the views of Canadians.

Senator Deschatelets: Honourable senators, since this is a place for debate, we might hear some other views on this matter—views which might be considered those of a gambler. That is why I move the adjournment of this debate.

On motion of Senator Deschatelets, debate adjourned.

ENERGY

STATEMENT OF POLICY RE OIL AND GAS—DEBATE ADJOURNED

Hon. Raymond J. Perrault rose pursuant to notice:

That he will call the attention of the Senate to the Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations, dated May 1976, tabled in the Senate on 20th May, 1976.

He said: Honourable senators, I promised some days ago to make a statement with respect to the proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations, and allied matters. I should like to do so this afternoon.

The federal government has taken significant initiatives in the energy field to prepare Canada for possible shortages and other unforeseen contingencies as they arise. These steps have involved much planning and consultation with the provinces and other interested parties, and were taken to ensure that the economic stability of Canada and the comfort of its citizens will not be disturbed unduly by the drastic changes in the world's energy fortunes since 1973 and the OPEC shock waves.

As honourable senators will recall, the world price of oil was $2.20 a barrel in 1973, and shortly after the fall crisis it began to escalate to the point where it now stands in the area of $12 a barrel. The impact of this economic event has been dramatic, to say the least, and has affected, as honourable senators are aware, the economies of all nations throughout the world.

On April 27 last, the Minister of Energy, Mines and Resources announced a national energy strategy for Canada. It is a strategy that is, in the view of the government, consistent and comprehensive. It consists of three well-defined parts, those being, first, an objective, which is energy self-reliance; second, a series of specific energy targets; and, finally, in support of the objective and targets, nine policy elements.

The national energy strategy for self-reliance is directed through the next 10 years at minimizing the risks of growing dependence on imported oil. Self-reliance in energy means reducing our vulnerability to unanticipated changes in price or prolonged interruptions in supply. It means supplying Canadian requirements from Canadian resources to the greatest extent practicable, but it is *not* a strategy of self-reliance at any cost. It recognizes that we will have to rely on imported oil, at least to a certain

degree. An important policy element is emergency preparedness to ensure that Canadians using imported oil will be adequately protected should supplies be curtailed.

Above all, it is a strategy that we believe is both balanced and flexible. It is balanced in the sense that it recognizes that the policies we adopt will have costs as well as benefits, and that a choice that provides the maximum advantage to Canadians must be found. It is flexible in the sense that many aspects of the international oil market and our own domestic energy situation are uncertain and are continuing to evolve. The approach adopted will be, we hope, dynamic enough to adapt quickly to changing circumstances.

The first target is to move domestic oil prices toward international levels, and the domestic price for natural gas to an appropriate competitive relationship with oil over the next two to four years.

Domestic energy prices must continue to increase to reinforce efficiency and restraint of energy use, to encourage the development of additional Canadian supplies, to reduce the magnitude of the transfer of real wealth from Canadians to oil-exporting countries, and to reduce the subsidization of oil consumers by the general taxpayer. They need not move to international oil prices if it is clear that new Canadian resources can be found and delivered to markets at prices that are lower.

● (1430)

The second target is to reduce the average rate of growth of energy use in Canada over the next ten years to less than 3.5 per cent per year. The government believes this can be attained by appropriate pricing measures and energy conservation initiatives. It represents a reduction in the historically observed growth rate of over one-third. It is a reduction which the government believes to be technically feasible with a minimal impact on our standard of living and quality of life. It is a reduction that is essential if we are to be able to plan our energy future in the most appropriate way.

The third target is to reduce our net dependence on imported oil in 1985 to one-third of our total oil demands—that is, to approximately 800,000 barrels a day.

The fourth target is to maintain our self-reliance in natural gas until such time as northern resources can be brought to market under acceptable conditions.

Finally, the fifth target is to double, at a minimum, from $350 million to $700 million, exploration and development activity in the frontier regions of Canada over the next three years under acceptable social and environmental conditions. This is a minimal target that will facilitate the development of the information necessary to make appropriate decisions about our energy options.

In support of the objective of energy self-reliance, the government proposes nine major policy elements, and these are: (1) appropriate energy pricing; (2) energy conservation; (3) increased exploration and development; (4) increased resource information; (5) inter-fuel substitution; (6) new delivery systems; (7) emergency preparedness; (8) increased research and development; and (9) greater Canadian content and participation.

This is a tough challenge for all of us, wherever we live in this country, but the strategy which has been adopted will, we hope, meet it positively and effectively. It is a strategy that is directed primarily at the problems of the next ten years. It is recognized that further policy initiatives directed at the problems of transition from oil-and gas-based energy systems to alternative energy sources are going to be required to prepare for the longer term future, but the next ten years are critical.

With the constructive cooperation of provincial governments and industry, and with the support of Canadians in all regions of the country, Canada can achieve the objective of energy self-reliance. Success in this endeavour will increase both the confidence and the options with which we can plan for the years beyond 1985.

More specifically, the federal government last week reached certain major decisions concerning crude oil and natural gas prices. In discussions with the provinces, it has been natural for the producing provinces which own the resources to press for higher prices for oil and gas to ensure themselves the best possible revenues to compensate them for the loss of their depleting assets. At the same time, they have recognized the effects of price increases on the economy of all of Canada. Governments of consuming provinces have naturally been mindful of the effects the price increase would have on their consumers. At the same time, they have had to consider the claims of producing provinces for recognition of their rights as owners of the oil and gas.

The Government of Canada meanwhile has had to keep all of these factors in mind—particularly that most difficult dilemma, the fact that price increases in these major commodities would add to inflation—and at the same time the fact that if we did not increase prices we would jeopardize our future energy supply.

In the light of all these considerations, the government has now reached the following conclusions:

1. There should be a standard "freeze" period on petroleum product prices of 60 days across Canada, which would run from the date of any increase in the price of crude oil at the well-head. Prices to consumers would not, therefore, rise until 60 days from the date of the authorized increase in the prices producers receive for crude oil.

2. The price of crude oil in Canada should rise by $1.05—that is to say, from $8 to $9.05—on July 1, 1976, and by a further 70 cents to $9.75 on January 1, 1977. Consumers would not begin to feel the effects until after 60 days from these dates.

3. The price of natural gas should rise by 15.5 cents at City Gate Toronto—that is, from 125 to 140.5 cents—per million BTUs on July 1, 1976, and by a further 10 cents to 150.5 cents on January 1, 1977. With these price increases, natural gas will continue for an additional year to retain its approximately 85 per cent commodity price relationship with crude oil.

4. Export prices on natural gas will also increase. The government is now reviewing a report on this subject from the National Energy Board, and is discussing the situation with representatives of the Government of the United States of America with hopes of being able to make an announcement concerning the amount and timing of the increase within a month.

A further policy initiative, supportive of the federal government's strategy for dealing with the energy issues of the next 15 years, was announced by the federal government last week as well. It is contained in the document entitled: "Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations." The existing Canada Oil and Gas Land Regulations, governing the disposition and administration of oil and gas rights in the north and in the offshore, were promulgated in 1961. Since that time, 15 years ago, there have been major changes in the petroleum situation both nationally and internationally, and technological advances have greatly changed the capability to explore for and to develop oil and gas reserves. It is necessary to update the regulations pertaining to Canada's frontier areas so as to provide increased public controls over exploration and production, to modernize the system for collecting economic rent and, at the same time, to continue to encourage exploration for new reserves. As emphasized by the strategy report, all of this must be done under acceptable environmental and social conditions.

The great bulk of Canada's frontier areas that can be considered as prospective for exploration with current technology is already held under permits issued in accordance with the existing regulations. Thus, in order to institute meaningful changes in the existing system, it is necessary to amend substantially the terms and conditions of these permits, which currently contain commitments to lease and royalty conditions extending for periods exceeding 50 years. This necessitates the adoption of appropriate legislation designed to impact on present contractual obligations.

However, it cannot be over-emphasized that the continued involvement of industry is essential, not only from the standpoint of providing investment capital but for the source and flow of exploration concepts as the discovery of new reserves is a function of the input of new ideas engendered by the competitive nature of business. A discovery, as honourable senators are aware, may be the result of several successive waves of exploration based on different methods of collecting and utilizing information.

The legislation involved is quite complicated. It will come before the Senate where we, of course, will have a full opportunity to discuss it and consider it, and refer it to an appropriate committee.

The legislation falls under six headings: (1) period of tenure; (2) new work obligations; (3) new fiscal systems; (4) preferences for Petro-Canada; (5) production orders; and (6) Canadian participation and content.

The discretionary powers envisaged under the new regulations will be far more extensive than those under the current regulations. There are many decisions to be made with respect to existing exploration permits; in particular, those with respect to the need to establish new requirements for widely differing areas as increasing numbers of permits reach the ends of their normal life over the next few years.

● (1440)

With regard to future oil and gas rights there are the basic decisions as to where and on what terms and conditions such rights should be made available by way of public tender or, in some cases, issued directly by order in council. In the former case, choosing successful applicants in the future will not be a matter of simply picking the highest bidder. There will be a number of factors to be considered in the best interests of Canada. Equally important and difficult will be decisions involved after the discovery of producible oil and gas. The new rental collection system will require the determination of a number of factors involving far more than normal accounting procedures; indeed, requiring a high degree of oil and gas expertise.

The development of the necessary administrative organization and personnel should, therefore, be ideally within one group, and the government proposes to set up a new unified resource management agency. That new agency will at the same time provide the vehicle through which preferential treatment for Canada lands will be effected for Petro-Canada, and it will maintain an objective balance between Petro-Canada on the one hand and industry on the other in the implementation of matters under the new regulations.

In summary, honourable senators, this new policy, which will be presented for parliamentary consideration this fall—and I know that all honourable senators will greet the debate of this matter with real interest—is designed to meet equally important but sometimes conflicting objectives, such as increased exploration and discovery, and greater control over the activities of the industry which must carry the lion's share of the exploration risk. Following extensive discussions with that industry, as well as with the provinces involved, we are confident that we have reached a fine balance which will prove to be in the national interest.

It will be apparent from the remarks I have made today on behalf of the government that Canada is entering a critical stage in terms of its energy problems, and the government is meeting them head-on with constructive legislation and strategies, some of which have already been outlined. These are just the first steps in meeting the challenges ahead, challenges which will require the commitment of all Canadians if we are to continue to meet our economic goals and enhance our quality of life.

On motion of Senator Phillips, debate adjourned.

COMMITTEES

AUTHORIZATION TO MEET DURING ADJOURNMENT OF THE SENATE

Leave having been given to revert to Notices of Motion:

Senator Langlois: Honourable senators, in view of the adjournment motion which was agreed to earlier today, and in view also of the wording of rule 76 of our rules, which may give rise to various interpretations, I move, with leave of the Senate and seconded by the Honourable Senator Perrault, P.C., that the following committees mentioned in my statement, which have scheduled meetings for next week, be empowered to sit when the Senate is not sitting, to wit: the Committee on Foreign Affairs, the Committee on Legal and Constitutional Affairs, the Committee on Banking, Trade and Commerce, among others, and also the Special Joint Committee on the National Capital Region and the Joint Committee on Regulations

and other Statutory Instruments, which, to my own satisfaction, already have permission to sit while the Senate is not sitting.

In moving this motion I commend it to the favourable consideration of the house.

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, June 8, at 8 p.m.

APPENDIX

(*See p. 2167*)

THE ESTIMATES

REPORT OF STANDING SENATE COMMITTEE ON NATIONAL FINANCE ON THE ESTIMATES LAID BEFORE PARLIAMENT FOR FISCAL YEAR ENDING MARCH 31, 1977

Thursday, May 27, 1976.

The Standing Senate Committee on National Finance to which the Estimates laid before Parliament for the fiscal year ending the 31st of March 1977 were referred, has in obedience to the order of reference of Thursday, the 19th of February 1976, examined the said Estimates and reports as follows:

1. Your committee was authorized by the Senate as recorded in the *Minutes of Proceedings* of the Senate of the 19th of February 1976 "to examine and report upon the expenditures proposed by the Estimates laid before Parliament for the fiscal year ending the 31st of March 1977, in advance of bills based upon the said Estimates reaching the Senate."

2. In obedience to the foregoing your committee made a general examination of the Estimates and heard evidence from the Honourable J. Chrétien, President of Treasury Board, and Mr. B. A. MacDonald, Deputy Secretary, Treasury Board.

3. The Main Estimates for 1976-77 in total amount to $39,545 million. Budgetary estimates account for $38,417 million and non-budgetary estimates (loans, investments and advances) account for $1,128 million. The Old Age Security Fund ceased to exist in June 1975, and these payments and those for the Guaranteed Income Supplement are included in the 1976-77 Estimates for the first time. Statutory payments make up 56.9 per cent of the total budgetary estimates, $21,847 million. The remaining $16,570 million represents funds for which Parliament is asked to provide new authority. In the 1975-76 fiscal year the Main Estimates, which did not include Old Age Security and Guaranteed Income Supplement payments, amounted to $29,585 million. This sum was increased to $32,257 million by two supplementary estimates. The budgetary estimates accounted for $30,755 million, which provided $15,010 million to meet statutory obligations, and $15,745 million for proposed new expenditures. Non-budgetary items totaled $1,502 million.

4. As will be apparent from the table which follows, the Main Budgetary Estimates 1976-77 ($38,417 million) are $6,207 million or 19.3 per cent higher than the Main Budgetary Estimates 1975-76. This increase does compare favourably with the percentage increase of 26.5 per cent requested in the Main Estimates 1975-76 over Main Estimates 1974-75. Your committee, however, continues to be concerned by the size of increase during recent years compared to earlier in the decade when it was on average about 10 per cent.

BUDGETARY ESTIMATES

(including OAS and GIS)

(millions of dollars)

Fiscal Year Ending	Main Estimates	%Increase Over Previous Year
	$	
March 31, 1969	12,212	—
March 31, 1970	13,588	11.3
March 31, 1971	14,817	9.0
March 31, 1972	16,557	11.1
March 31, 1973	18,273	10.4
March 31, 1974	21,427	17.3
March 31, 1975	25,467	18.9
March 31, 1976	32,210	26.5
March 31, 1977	38,417	19.3

5. The new summary table in the Blue Book of Estimates, table 7 (page 1-62) has been introduced largely in response to comments in previous reports of your committee. This table classifies Budgetary Estimates and Forecast Expenditures by type of payments. The principal headings of this table with the relevant amounts and percentage distribution are:

Estimates by Type of Payment

(millions of dollars)

	Estimates 1976-77	Forecast Expenditures 1975-76*	Percentage Distribution of total 1976-77 Estimates
	$	$	%
Payments to persons	9,077.4	7,722.0	23.6
Payments to other levels of government	8,108.8	7,131.5	21.1
Operating and Capital expenditures of departments and agencies, non-defence	8,095.7	6,879.7	21.1
Public Debt	4,650.0	3,775.0	12.1

Estimates by Type of Payment

(millions of dollars)

	Estimates 1976-77 $	Forecast Expenditures 1975-76* $	Percentage Distribution of total 1976-77 Estimates %
Subsidies and other transfer payments	4,160.1	4,558.8	10.8
Department of National Defence	3,371.1	2,976.6	8.8
Payments to certain agency and proprietary corporations	954.0	795.9	2.5
TOTAL	38,417.1	33,839.5	100.0

*Total 1975-76 Expenditures forecast as at December 31, 1975.

6. The fact that statutory payments now make up 56.9 per cent of the total Estimates effectively limits the effort of the Treasury Board to control expenditures. Entrenched acts should be regularly reviewed. The Minister assured the committee that many programs are being reviewed and where a change in legislation is indicated it will be undertaken.

7. Your committee is equally concerned about the continued growth in the Public Service. The number of continuing employees on strength on September 30, 1975 was 305,470. The number of planned continuing employees on March 31, 1976 was 322,507. For 1976-77 authority is requested for a total of 349,345 man-years, which is an increase of 4,007 man-years or 1.3 per cent. This modest net-growth in man-years was achieved by reducing staff in many departments to compensate for increases considered to be essential, chiefly in four departments, Post Office, National Revenue, Manpower and Immigration (including the Unemployment Insurance Commission) and Solicitor-General.

8. Three other major subjects of concern were discussed with the President of the Treasury Board and his officials.

(*a*) The recommendation that the annual increase in federal government expenditures should not exceed the annual increase in the Gross National Product has been repeatedly made by this committee. The Minister pointed out that if the transfer payment for the stabilization of the price of oil, an amount of $1,410 million (Oil Compensation Payments) was excluded from the Main Estimates 1976-77, the increase for the year would be almost exactly the same as the anticipated increase in the Gross National Product. The effect of many actions taken to slow the accelerating rate of federal expenditures should be more evident next year. The committee was assured that the anticipated over-all increase in 1977-78 should be substantially lower than 16 per cent.

(*b*) On many occasions in the past your committee has expressed dissatisfaction with the continuation of the practice of providing authority through the Appropriation Act which negates the provision of the Financial Administration Act that spending authority should lapse at year-end. Officials of the Treasury Board told the committee that the Canadian International Development Agency (CIDA) is the only remaining significant expenditure program for which such authority is given. Improved planning and management of CIDA programs has reduced the accumulated amount for which prior expenditure authority existed. It is expected that this 'aid pipeline' will be exhausted this year. Future planning for CIDA will be based more reliably on cash flow needs and appropriations will be made accordingly. Other smaller non-lapsing expenditure authorities include the National Capital Fund and the purchase accounts of the museums. The total unliquidated expenditure authority for these is in the order of a very few millions. Non-lapsing authority was most frequently related to loan programs, particularly loans to Crown corporations. To promote realistic planning there has been concerted action by the Treasury Board to cut out this type of loan provision.

(*c*) The Treasury Board plans to include in the Blue Book of Estimates for the fiscal year 1977-78 a more informative presentation of non-budgetary expenditures. Loans to all Crown corporations will be shown. The present practice is to show only those loans for which other authorization does not exist. This change reflects a concern which the committee has expressed many times in the past.

9. In comparing the Main Estimates for 1976-77 with the final authorization shown for 1975-76, some of the major increases are as follows:

Increases in Statutory Items	($ in millions)
Public Debt	875.
Unemployment Insurance Contributions	810.
Old Age Security Payments	377.
Hospital Insurance Contributions	325.
Canada Assistance Plan Payments	172.
Fiscal Transfer Payments	169.
Medical Care Contributions	160.
Payments in connection with the Two-Price Wheat Program	105.

Increases in Items to be Voted	($ in millions)
Defence Services	395.
Post Office	204.
Central Mortgage and Housing Corporation	89.
Veterans Affairs	88.
Royal Canadian Mounted Police	65.
Northern Affairs	57.
Statistics Canada	53.
Marine Transportation Program	53.
Air Transportation Program	51.
Surface Transportation Program	42.

Increases in Non-Budgetary Items	($ in millions)
Energy Mines and Resources	89.
Central Mortgage and Housing Corporation	60.

Respectfully submitted.

H. Sparrow,
Deputy Chairman.

THE SENATE

Tuesday, June 8, 1976

The Senate met at 8 p.m., Honourable Maurice Bourget, P.C., Speaker *pro tem*, in the Chair.

Prayers.

THE LATE HON. W. ROSS MACDONALD, P.C.,
TRIBUTES

Hon. John J. Connolly: Honourable senators, since we were last assembled here one of our former colleagues, the Honourable W. Ross Macdonald, died at his home in Brantford. The date of his death was May 28 last.

Senator Macdonald was in his eighty-fifth year, and it would be difficult to think of another person who devoted himself so exclusively to the affairs of the public in such a devoted way as did Ross Macdonald throughout his many years in public life. He had a distinguished career, first in the armed forces in World War I, during which he was wounded, and then as a lawyer in Brantford, where he practised as a member of the Bar of the Province of Ontario. At a subsequent time in his career he became Solicitor General of Canada. This is an ambition that is worthy of a good lawyer, and Ross Macdonald was a good lawyer. He was 18 years in the House of Commons, having been elected to that body in 1935. He was Speaker of the House of Commons from 1949 to 1953, and 23 years ago this week he was appointed to this chamber.

Ross Macdonald came to the Senate as Leader of the Government. His was not an easy task, and he not only carried it off but he carried it off with distinction. He was Leader of the Opposition in this house from 1957 to 1963, and again became Leader of the Government in 1963, which office he retained until his resignation from the Cabinet in 1964. He resigned from the Senate on his birthday, which was Christmas, in 1967, and the following year he was appointed Lieutenant Governor of Ontario, a post in which he served, again with his customary distinction, for six years.

I cannot really speak about the fine career of Ross Macdonald in the public service of this country without mentioning his devoted wife, Muriel, who died many years ago but after he had become leader in this house. His two daughters have supported him throughout the years since then.

Ross Macdonald, as I am sure all who knew him will agree, was a great gentleman. When Senator Aseltine was leading this house, he did not have an easy time for many reasons. One of his great problems was that there was an overwhelming Opposition, but he never had a moment's worry and he said this often about Ross Macdonald's threatening him with the great majority of the Senate on the Opposition side in those days. Senator Macdonald understood the problems which Senator Aseltine faced; he understood the difficulties of the government leader in this house. I think all of us who were here during those days will agree that Ross Macdonald performed with a balanced judgment and, indeed, with the instincts of a very gentle man.

The Honourable W. Ross Macdonald had a fine career in the public service of his country, and it seems to me to be highly appropriate that this chamber, in which he spent so many years with such distinction, should mark his passing with sorrow.

Hon. David J. Walker: Honourable senators, on behalf of my leader and on behalf of the Opposition, may I say a word of tribute, which I am sure is the tribute of all of us, on the passing of Ross Macdonald. I knew him for 45 years. I remember an occasion when he shared with me words of real wisdom. They were "Lose your temper, lose your case." This was at a time when we were acting for very hostile branches of a family; I was acting for one and he for the other. We sat in a middle room, with one branch of the family in a room to one side, and the other branch in another room on the other side. They wouldn't talk to each other; they hated each other. We worked all day, and always good-naturedly. It was a great lesson for me, and we finally got the problems ironed out. Ross could always iron things out. He was a kindly, erudite and sensible man.

He was a really outstanding lawyer before he ever went into politics, and I knew him in the days when he was such a good lawyer. His career could not have been more brilliant, as Senator Connolly has pointed out, in the House of Commons where he became Speaker. Following that he was appointed Leader of the Government in the Senate. He was a very good leader, as so many will well remember, particularly Senator Croll and Senator Hayden. He had that smooth way of making everything go beautifully. It was a great lesson to many of us just to be able to watch him operate.

Then he became tired and fretful. His wife had died and he was no longer leader in the Senate. He went home to Brantford. Senator Connolly arranged a dinner party for him, which we were all to attend, but he was not going to be there. It was nothing against you, Senator Connolly; he was so depressed. However, we finally got him up here, and Senator Connolly organized the greatest dinner we have ever had in the Senate. I remember it well. Ross Macdonald attended, and became cheered again. The following morning Senator Connolly arranged a meeting with the Prime Minister, the Right Honourable Lester B. Pearson. Senator Macdonald was there, and he emerged as Lieutenant Governor of the Province of Ontario. He had had no intimation of that appointment; no one had ever mentioned it to him before. I believe it was hatched up during that visit. It is odd how things sometimes work out. Ross Macdonald became one of the most distinguished lieutenant governors.

I remember what a great help he was to me in my first election in Rosedale. Two of his children lived in my

riding. One of them, Molly, was married to Doug Haldenby, now a famous architect but then an officer in the 48th Highlanders and, for me, a subdivision captain. Ross gave the couple his blessing and said he would not mind if they voted Tory that time. He was very broadminded, you know, to allow them to vote for me.

It is sad to know that Ross Macdonald has passed on. However, we are certain that wherever he is right now he will carry on in just the way he did during his lifetime.

A week ago I was at Wilfrid Laurier University. Of course, that doesn't sound very Tory. Ross was the chancellor of that university up until very recently. It was an inspiration to see and hear 4,000 people pay their tribute to him. I would only hope that all of us will endeavour to emulate him. If we can pass away with half the good will that he had, we shall all be very fortunate. Ross Macdonald was a great man.

● (2010)

Hon. David A. Croll: Honourable senators, I associate myself with the words of Senator Connolly and Senator Walker. Senator Ross Macdonald and I shared a special friendship over a period of 50 years. I participated in each of the parliamentary elections in which he participated. We served together in the House of Commons. He was very active when we were drafting the veterans' charter. He had been seriously wounded in the First World War and he always looked out for the veterans. The aged and the handicapped were also of special concern to him.

As a Speaker, he was outstanding. Prime Minister Louis St. Laurent said of him that no speaker had been greater and few had been his peer.

He came to the Senate in 1953 and served until 1967. We must not forget that he was responsible for redirecting the energies of the Senate into an investigatory role, which we have followed in many fields. He later served as Lieutenant Governor of Ontario. A gentle and amiable man, graceful and warm. I recall a Cabinet colleague once describing him as being a charming and comfortable colleague.

Ross Macdonald was a well-rounded Canadian who delighted in service to his country. Eighty-four years—soldier, lawyer, Member of Parliament, Speaker of the House of Commons, Senator, Leader of the Government in the Senate, Lieutenant Governor. His was a full life. None of it was wasted, and we are thankful for it.

We extend to his family our condolences, and our appreciation of having shared with them part of his life.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

STANDING JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker *pro tem* informed the Senate that messages had been received from the House of Commons to acquaint the Senate that the name of Mr. Laprise had been substituted for that of Mr. Allard and that the name of Mr. Allard had been substituted for that of Mr. Laprise on the list of members appointed to serve on the Standing Joint Committee on Regulations and other Statutory Instruments.

SENATE AND HOUSE OF COMMONS ACT SUPPLEMENTARY RETIREMENT BENEFITS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tem* informed the Senate that a message had been received from the House of Commons with Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder.

Bill read first time.

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

Senator Langlois, with leave of the Senate, moved that the bill be placed on the Orders of the Day for second reading at the next sitting.

Motion agreed to.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of the Postmaster General respecting Olympic coins for the period ended March 31, 1976, pursuant to sections 13(2) and 13(3) of the Olympic (1976) Act, Chapter 31, Statutes of Canada, 1973-74.

Copies of letters, dated May 12, 1976, from the Secretary of State of Canada to the ten provincial Ministers of Education respecting the financing of post-secondary education under the Federal-Provincial Fiscal Arrangements Act, 1972.

Supplementary Estimates (A) for the fiscal year ending March 31, 1977.

Report on the operations of the Exchange Fund Account, together with the Auditor General's report on the audit of the Account, for the year ended December 31, 1975, pursuant to sections 17 and 18(2) of the Currency and Exchange Act, Chapter C-39, R.S.C., 1970.

Report relating to the administration of the Farmers' Creditors Arrangement Act for the fiscal year ended March 31, 1976, pursuant to section 41(2) of the said Act, Chapter F-5, R.S.C., 1970.

Copies of Order in Council P.C. 1976-1151, dated May 18, 1976, amending Part I of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

Copies of Report, dated April 1, 1976, of the Task Force on Polychlorinated Biphenyls to the Environmental Contaminants Committee of Environment Canada and Health and Welfare Canada entitled "Background to the Regulation of Polychlorinated Biphenyls (PCB) in Canada" (English), together with a Summary (English and French).

THE ESTIMATES

SUPPLEMENTARY ESTIMATES (A) REFERRED TO NATIONAL FINANCE COMMITTEE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(e), moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the supplementary estimates (A) laid before Parliament for the fiscal year ending the 31st March, 1977.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting tomorrow, June 9, 1976, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

PROVINCE OF NOVA SCOTIA

DESTRUCTION OF FORESTS AND RESIDENTIAL PROPERTY BY FIRE

Senator Graham: Honourable senators, before the Orders of the Day are called, with leave I should like to draw a serious situation to the attention of the Senate.

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

Hon. Senators: Agreed.

Senator Graham: Honourable senators, I want to draw to the attention of the Senate the unfortunate circumstances surrounding the tragic forest fire which destroyed church and residential property in the small village of Main-à-Dieu on Cape Breton Island over the weekend. I personally visited the site yesterday, discussed the matter with officials in the office of the Minister of Urban Affairs, and last night met with the provincial ministers of housing and health, the County Warden of the County of Cape Breton, as well as residents of the affected area.

● (2020)

At last count, 18 homes were destroyed, along with a number of trailers, motor vehicles and fishing boats. Affected residents escaped only with the clothes on their backs. As well, the community lost its historic Catholic church and Glebe House. The church, of magnificent Gothic architecture, was built on the shores of Main-à-Dieu in 1885, and for almost a century its tall white steeple was used as a landmark for returning village fishermen. Most of the private dwellings that were destroyed were located on the fringe of a wooded area along the highway at the outer section of the village. Fortunately, there was no loss of life.

Temperatures in Cape Breton during the weekend were in their usual high eighties, and the flames were driven by unusually high winds. Hundreds of firemen were at the scene, and they were aided by militiamen as well as provincial lands and forests employees. At one time it was estimated that 2,000 volunteers fought the blaze.

[Senator Langlois.]

As a matter of interest, another nearby major fire came within five miles of the town of Louisburg, forcing the temporary closure of Fortress Louisburg as a precautionary measure.

There were other forest fires in Nova Scotia on the weekend, and in all some 33,000 acres of woodland were destroyed. Rain showers yesterday helped to contain all fires. It should be pointed out that the origin of these fires is not yet known, but the provincial Minister of Lands and Forests has promised a complete investigation.

Officials of both CMHC and the Nova Scotia Housing Commission visited the site immediately after the disaster. All individuals who lost their homes are now safely housed with friends and neighbours, thanks to the warm hospitality and community spirit, which, as the senior senator for Cape Breton, the Honourable John M. Macdonald, and others will attest, is always prevalent and available to natives on and visitors to Cape Breton Island. All levels of government are now personally interviewing the families involved to determine their needs in terms of rental or ownership, size of home needed, financial status, and other factors.

I can assure honourable senators that both CMHC and the Nova Scotia Housing Commission are committed to speedy action, eliminating or totally bypassing red tape, getting the families housed and working out the details later. Both levels of government are reviewing all of their programs at the present time to attempt to adapt them to the situation at hand. I should report that several options are being considered, including a rapid program of new construction and the transfer of partially built manufactured homes from nearby areas.

I am confident that the spirit of cooperation shown by CMHC, the Nova Scotia Housing Commission, the municipality of the County of Cape Breton and many individual citizens and agencies, will result in these unfortunate individuals being comfortably housed in a very short period of time.

I would ask the Leader of the Government in the Senate, through the deputy leader, to urge upon his Cabinet colleagues immediate and sympathetic cooperation with respect to any requests for special assistance which may come before the Government of Canada.

Senator Macdonald: Honourable senators, I should like to associate myself with the remarks of Senator Graham, and hope that speedy action will be taken to assist these good people. I suppose most people have never heard of the village of Main-à-Dieu. However, it is most unusual that a forest fire would come that close to a village. We have forest fires elsewhere in Nova Scotia but it is most unusual for homes to be destroyed by them. The people of this village are good people. They are what we call God-fearing people.

An Hon. Senator: Scotch.

Senator Macdonald: Not Scotch, French people. They have always got along well. They are a happy, self-reliant people. This has been a disaster to them. I do hope that the various governments and agencies will be able to assist them, and, as Senator Graham said, without all the red tape that is usually involved in these circumstances.

Senator Langlois: Honourable senators, I am sure we are all indebted to our colleagues for having brought to our attention the circumstances of this disastrous fire which occurred recently and struck the hard-working population of Main-à-Dieu in Cape Breton, although we have had some coverage of this tragedy through the media. I shall be pleased to pass the message which has been conveyed to us on to my leader as soon as he returns to Ottawa sometime this week. I hope every consideration will be given to the request which was made of the government this evening.

PROVINCE OF SASKATCHEWAN

SAFETY OF GARDINER DAM—QUESTION

Senator Greene: Honourable senators, I have a question for the Leader of the Government in the Senate. In light of the great disaster in Idaho caused by the failure of the earth-filled dam, and in light of the fact that Canada has one of the largest earth-filled dams in the world, that being the Gardiner Dam, could the leader inform this house, and through us the public of Canada, what steps are being taken by the government to ensure that the Gardiner Dam is safe, and that the pent-up waters of Diefenbaker Lake are being held back by the Gardiner Dam and will not wreak similar havoc in the lands abutting that great earth-filled dam?

Senator Langlois: Honourable senators, I thank Senator Greene for having brought to our attention what happened recently in Idaho. I should like to comment, regarding the expertise of Canada in building earth dams, that another dam, which is also a tremendous earth dam, was built in recent years on the Outardes River in the province of Quebec.

I shall have to take the honourable senator's question as notice. I do not know that Canada's expertise in this regard would be welcomed by our neighbours to the south, but I am sure that the Government of Canada and our various provincial governments would be pleased to provide any information in this respect that may be required by our American neighbours.

ENERGY

STATEMENT OF POLICY RE OIL AND GAS—DEBATE CONTINUED

The Senate resumed from Thursday, May 27, the debate on the inquiry of Senator Perrault calling the attention of the Senate to the Statement of Policy, Proposed Petroleum and Natural Gas Act and New Canada Oil and Gas Land Regulations, dated May 1976, tabled in the Senate on May 20, 1976.

Hon. Orville H. Phillips: Honourable senators, the Leader of the Government in the Senate, in initiating this inquiry on energy matters, has opened up a broad field for discussion. I am pleased to congratulate him on his initiative, and at the same time I would inform him that we in the Opposition have nominated his remarks for the Governor General's award for fiction. The second paragraph alone should merit the award. It would be described by literary critics as a masterpiece in creative imagination.

I have reviewed the government's action on energy matters and I find it difficult to discover any effective initiative that the government has taken on energy matters. If there were any significant consultations, they were certainly not with Parliament. Obviously, it is the attitude of this government that the federal Parliament is not interested in energy matters.

● (2030)

Surely Senator Perrault does not believe that Canadian citizens have not been unduly disturbed by the change in the oil prices? Many people believe that our so-called energy crisis began with the increase in oil prices in 1973. This is not the case, however. We had a great deal of warning, first, when the OPEC countries began demanding a greater share of the profits from the sale of oil produced in their countries, and secondly, when those countries began demanding a share in the oil companies operating within their territories. The warnings, honourable senators, were as obvious as those of a thunderstorm on the Prairies in July or August, yet the Canadian government continued to ignore them.

A former Minister of Energy, Mines and Resources—admittedly a rather "green" one—developed the so-called "Colorado doctrine"; that is, that we had enough oil and natural gas to last us for our lifetime, and the government continued to maintain this attitude.

A very few years ago the Prime Minister of this country was complaining to the President of the United States that that country was not acting as a very good neighbour in that they did not purchase enough crude oil from Canada. Today the situation has changed. We are reducing our sales of crude oil to the United States, and the Americans are referring to us as "the Arabs of the North."

Senator Perrault's remarks were divided into three distinct categories: first, the objective of self-reliance; secondly, a series of specific energy targets; and thirdly, nine policy elements. I am intrigued, honourable senators, by the fact that the government, in dealing with these three categories, used the word "strategy" rather than "policy." Perhaps this is due to the fact that this government has an aversion to establishing a definite policy on anything. In the Maritimes we say, "The wind changes with the tide." In Ottawa the policy changes with the particular mood of the day.

The first target of the government is to move domestic oil prices toward international levels. I believe this policy to be unnecessary. The government policy of increased oil prices has only one objective, and that is increased revenue. Later on in my remarks I shall have more to say about the government's policy of obtaining increased revenues by increasing oil prices.

It is unfortunate that the government has failed to recognize that it is the rate of return on investment, not the price of oil, that encourages oil exploration. Oil companies, honourable senators, are no different from banks, mortgage companies or labour unions. All of these seek a return for their labour and investment.

The objective of reducing energy consumption in Canada may be a very worthwhile one. However, I believe the term should refer to a reduction in the use of gas and oil. It is impossible to reduce energy consumption without

lowering our standard of living. Very few housewives would be willing to dispense with their electric stoves and revert to wood or coal-burning ones. Certainly very few of us are willing to walk up five flights of stairs instead of using the elevator. It is interesting to note that the federal government is the worst offender with respect to the excess consumption of energy. All you have to do is look at the various office buildings in Ottawa that remain lighted 24 hours a day.

While I am mentioning energy conservation, I should point out that various provinces export a great deal of energy. Quebec exports a large amount of energy to the United States, and I believe New Brunswick does the same, yet the Maritime provinces are short of electrical power.

During the past week the present Minister of Energy, Mines and Resources made certain statements at Chatham, Massachusetts, indicating that the federal government would move into the field of hydroelectric power generation. I do not have full details of this—all I know about it is what I have heard on radio news broadcasts—but I would like to say that there seems to be something strange or odd about our Ministers of Energy, Mines and Resources who, when they have a statement to make, must go south of the border to do so. Surely, honourable senators, they can make their statements in Canada.

The government proposes to reduce our dependence on imported oil to a level of approximately 800,000 barrels a day, yet last year we granted 175 permits for the export of oil east of the Ottawa Valley line. The total amount of oil exported east of the Ottawa Valley line was 24.5 million barrels. Most of this went to the islands of St. Pierre and Miquelon, where it was sold to foreign fishing vessels which, in turn, competed with our fishing vessels on the Atlantic coast.

Three years ago the Government of the United States set the year 1980 as their target for self-reliance in the field of oil consumption. Three years later we in Canada are setting the year 1985 as the target. Honourable senators, this government only reaches its objective in one area, and that is higher taxation. Therefore, I predict that we will more likely have reached the year 1995 before we can depend totally upon oil produced within this country.

The fourth target outlined by Senator Perrault is that of maintaining our self-reliance in natural gas until we can use the natural gas from northern Canada. We must bear in mind, honourable senators, that as yet no method has been developed to bring the gas in northern Canada to southern Canada, where it is so urgently needed and can be utilized. The Berger inquiry will not report for several months and, if the usual pattern is followed, it will be at least two years before the government completes its study of the Berger report. After that a pipeline, or some other method, must be used to bring the natural gas to southern Canada.

It is essential that we achieve the objective of doubling exploration and development activities in Canada over the next three years.

● (2040)

Last year $332 million was spent on the development of frontier resources. This amount is less in real terms than the expenditure in 1972. Canada cannot afford to waste time while other countries are expanding their exploration activities. We must face the fact that it is far more profitable for Canadian oil companies to explore for and to bring into production oil fields in foreign countries than it is to do so in Canada. We have the ridiculous situation of Canadian oil companies bringing into production oil wells in the North Sea, and the unfortunate migration of Canadian drilling companies to the United States. Canadian companies have moved to foreign countries for one reason only—it is more profitable to operate in those countries.

In addition, oil companies drilling in other countries do so under very clear and concise regulations. They know that the regulations in effect when a drilling is commenced will be in effect when the drilling is finished; and that when oil is brought into production the same regulations will be in effect. In Canada we change our regulations, not by act of Parliament but by order in council.

Senator Perrault stated it will be necessary for us to look at alternative energy sources for the long-term future. In Canada, a country rich in uranium, the most logical alternative would be nuclear energy. Despite the large expenditures we have made on Atomic Energy of Canada Limited, we satisfy a very small percentage of our energy requirements by nuclear means. In fact, honourable senators, it amounts to less than one per cent.

In its brochure, Atomic Energy of Canada Limited shows pictures of nuclear plants installed in Korea and Japan. However, in Canada we can boast of very little success in the production of nuclear energy. This is partly due to the fact that although the federal government has the authority for conducting research and development in the field of nuclear energy, it passes the responsibility for production to the provinces. When a nuclear plant is proposed, the environmentalists scream and proceed to organize a protest movement against its construction. The fears and protests are due to the fact that Atomic Energy of Canada Limited has not assured the Canadian public that it has achieved a safe method of disposing of nuclear waste.

The State of California, in its election primary, places a number of questions on the ballot. One of those questions this year concerns the production of nuclear energy. An advertising program was carried out on TV and radio, and in the newspapers, in the state, and the citizens have had the opportunity to consider the pros and cons before voting on the subject. I am not advocating a plebiscite in Canada, honourable senators, because I do not think the decision should be made by, or based on, a plebiscite; it should be made by those who are experts and qualified to make such a decision.

The American Atlantic Council last week produced a report in which they urged the United States to turn to greater production of nuclear energy. I can recall being a member of the Canada-United States Inter-Parliamentary Group when it visited Oak Ridge. At that time we were assured that about 75 per cent of the energy requirements of the United States would be provided by nuclear power. The United States has not achieved that objective, and we in Canada are lagging still further behind. I would like to see Atomic Energy of Canada Limited introduce an educational program on nuclear energy to allay the fears of those environmentalists who raise protests, and I hope that the

government will give greater consideration to this energy source in the future.

Earlier in my remarks, honourable senators, I said that the federal government was happy to have increased oil prices. It is most unfortunate that at a time when we should be fighting inflation the federal government should take unilateral action to increase oil prices. This ravenous, greedy government views oil prices as a desirable source of tax revenue. The increased oil prices came about at a time when the members of OPEC refused to increase their prices because they recognized the effects on inflation. Probably we can find a desert nomad who could give a lesson in economics to the Prime Minister and the Minister of Finance. The consumer in Canada has been skewered like so many pieces of meat, green peppers, tomatoes in preparation for a shishkabob, but before it can be tasted the Prime Minister turns to him and says, "We want increased fuel prices before we can complete the barbecue."

The increase of $1.75 per barrel for crude oil will cost the Canadian consumer $1.5 billion per year, and will add 2.5 points to our rate of inflation. The federal government will receive 27 per cent of the $1.75. Honourable senators, 27 per cent of that increase on every barrel of oil sold in Canada is a lot of revenue to be wasted. When we combine this with the excise tax of 10 cents a gallon, plus the federal sales tax of 3.9 cents per gallon, we find that the federal government gets 15½ cents on every gallon of gasoline sold in Canada. The service station operator, in turn, gets 7.9 cents per gallon. I hope that the consumers of Canada will wake up and begin to realize that they are paying Mr. Trudeau twice as much as they are paying the service station operator. Recently some Liberals have suggested that the provinces should remove their tax on gasoline. Most provinces have a limited tax base, and they need the tax on gasoline for their road construction and other programs within the provinces. I do not intend to go further into that argument, except to say that I would be perfectly happy if both the federal government and the provincial governments vacated this particular tax field.

● (2050)

As a result of the increase in oil prices, the consumers in Nova Scotia and Prince Edward Island will be extremely hard hit in the cost of their electricity. During 1975 the price of electricity increased by 80 per cent in Nova Scotia, and by an even greater amount in Prince Edward Island. The new increase will add an additional 20 per cent to these costs. Several years ago the Atlantic provinces approached the federal government and proposed the construction of the Fundy tidal project. A number of feasibility studies were carried out on this project, and the Department of Energy, Mines and Resources rejected the idea. They said that the cost of electricity would be too high. The Colorado doctrine prevailed; oil was plentiful and cheap. They said, "Use oil to generate electricity." Today the Atlantic provinces are paying the price for the error made by the federal government, and the federal government refuses any responsibility in this regard.

The recent announcement of new regulations concerning exploration permits and leases will not accomplish a great deal, except that they will create confusion, but that is not unusual for this government. The emphasis placed on government participation and supervision reflects the Prime Minister's ambition of remodeling our economy. Again we see the government requesting increased discretionary powers with no explanation or reason being given. There is no indication as to who would use the powers—the bureaucrats or cabinet ministers. Oil executives are very efficient people, honourable senators, and I cannot imagine their wishing to deal with either one of the two evils mentioned.

The new strategy suggests that oil exploration off the Nova Scotia shelf and the Grand Banks will increase threefold. I am curious to know how this will happen. I have read and studied the strategy, and can find no indication that the new regulations will increase exploration. Shell Oil, two weeks after the proposed regulations were announced, stated that it was reducing its exploration and drilling activities on the Atlantic coast. During the past year Shell turned over a large percentage of its leased areas to Petro-Canada. I wonder what Petro-Canada did with those leases in the past year? What future plans have they for the leases returned by Shell? The regulations contain a number of changes dealing with existing leases. Care must be exercised in these cases. Small oil companies have only one asset for raising funds, and that is acreage with the potential of oil production. If that asset is removed it is impossible to raise the necessary financing. Interference of this nature will affect the small Canadian companies; not the international corporations.

Senator Perrault stated that future gas and oil rights will not be a matter of simply picking the highest bidder. One wonders what criteria will be followed? Personally, I would interpret a high bid as a sincere intention of carrying out exploration. Apparently, in the new economic order a very low tender is considered more desirable than a high one. It is even more frightening when we consider the possibility of political interference. Instead of tendering on oil rights, oil companies could possibly be referred to Liberal bagmen, and I believe honourable senators know how those individuals operate.

The government has emphasized that it is essential to have the oil industry involved in future developments. At the same time, it makes every effort to assume control and direction of their activities. One method is to demand greater information. Do we have anyone in the Department of Energy, Mines and Resources capable of analyzing the information? Certainly the past performance of that department leaves a great deal to be desired. The minister may, on a need-to-know basis, order a permit holder to carry out an exploratory drilling program within the company's permit acreage. Imagine bureaucrats telling an oil company that it is known that there is oil in one corner of its lease, but they want information about the other corner and therefore the company will drill in that corner. This will not reduce our dependency upon imported oil. The government has not explained who will provide the financing for the drilling of the government-directed dry holes. I see a lot of tax money being wasted in this regard.

The new strategy provides preferential treatment for Petro-Canada with respect to exploration lands. The position of an oil company in relation to Petro-Canada has become very precarious. An oil company must obtain a permit and a lease from its competitor, the federal government. It must follow regulations which may be altered in

the government's favour at any time, and if oil is brought into production the federal government can, through Petro-Canada, demand a slice of the action. This is like playing ball, with the umpire taking a turn at bat on behalf of Petro-Canada.

● (2100)

It is proposed to establish a new agency to unify resource management. We already have enough agencies and crown corporations interfering in oil production. The establishment of Panarctic Oil, Syncrude, Petro-Canada, and the Canadian Development Corporation has so far failed to produce a single barrel of oil. It will be several years before we can hope for any results.

Honourable senators, does the Prime Minister have that many unemployed friends that we must create a new crown agency for them? We have five agencies, and five too many. We can conclude from Senator Perrault's remarks that the government has failed to develop a policy on gas and oil conservation, or on exploration and development. The matter is too urgent for further delay.

Senator Greene: Would the honourable senator permit a question?

Senator Phillips: Certainly.

Senator Greene: I would preface my question by thanking the honourable senator for the fine recipe he gave us for shishkabob. I commend to him that the next time he speaks on energy he study the energy facts as assiduously as he studied the gourmet cook book. Possibly he could enlighten us greatly by so doing.

The honourable senator complains about the increase in the price of oil. As the greater part of the increase is caused by the demands of his colleague, the Premier of Alberta, do I then take it that the honourable senator infers that the federal government should set oil prices irrespective of the demands and wishes of the Province of Alberta?

Senator Asselin: He didn't say that.

Senator Phillips: Honourable senators, it is too bad that Senator Greene, when Minister of Energy, Mines and Resources, did not study the cook book. We would probably have been better off, because he was not very accurate in his study of energy, mines and resources.

In reply to his question, I would point out that I am not the only one to object to increased oil prices. Concerning his suggestion that the federal government use unilateral action, I would like to know what else they used if it were not unilateral action? I do not know of a single province which agreed to their action, and that includes Alberta, Saskatchewan and Manitoba.

Senator Langlois: If no other honourable senator wishes to speak on this inquiry at this time, I move the adjournment of the debate.

On motion of Senator Langlois, debate adjourned.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the report of the Standing Senate Committee on National Finance on the estimates laid before Parliament for the fiscal year ending March 31, 1977, which was presented on Thursday, May 27, 1976.

Hon. Chesley W. Carter: Honourable senators, on behalf of Senator Sparrow, I move the adoption of the report.

In so doing, I should like to mention that the President of the Treasury Board, the Honourable J. Chrétien with his officials, in particular Mr. B. A. MacDonald, Deputy Secretary, Program Branch, appeared before the committee. In my opinion, we had a very interesting and productive session. All questions were answered forthrightly and, I believe, to the satisfaction of the committee members present.

As the report indicates, the total proposed expenditures for the current fiscal year amount to $39,545 million. This amount can be broken down into statutory items amounting to $21,847 million; items to be voted amounting to $16,570 million; and $1,128 million of non-budgetary items for loans, investments, advances and activities of that kind. The expenditures that can be classified as purely budgetary items total $38,417 million. I should point out that the Old Age Security Fund ceased to exist in June 1975, and consequently Old Age Security payments and Guaranteed Income Supplement payments are included for the first time in the estimates for 1976-77.

The total budgetary estimates including OAS and GIS payments for the year ending March 31, 1976, amounted to $34,723 million. To this sum must be added $1,502 million for non-budgetary items, making a grand total of $36,225 million; that is, $36.2 billion as compared with $39.5 billion for the current fiscal year 1976-77. The bulk of the increase of $3.3 billion is accounted for by the increase in expenditures as shown in item 9 of the report. The largest of these increases are:

	($ millions)
Public Debt	875
Unemployment Insurance Contributions	810
Defence Services	395
Old Age Security Payments	377
Hospital Insurance Contributions	325
Post Office	204
Canada Assistance Plan Payments	172
Fiscal Transfer Payments	169
Medical Care Contributions	160

These increases are offset by decreases in the blue book, which give the net increase of $3.3 billion.

The President of the Treasury Board emphasized the fact that 56.9 per cent of the estimates comprise statutory payments which limit the flexibility of the Treasury Board in trying to reduce expenditures. Nevertheless, he informed us that programs are under constant review with a view to controlling expenditures as much as possible.

I feel that I should draw the attention of honourable senators to item 5 of the report, which breaks down under principal headings the budgetary estimates by type of payments. This information was taken from a new table this year in the blue book of estimates which provides

information which your committee has often suggested would be a useful and edifying addition to the estimates.

I should like also to draw your attention to three other items contained in the report, which are particularly gratifying to your committee as they have been the subject of representations by your committee to the Treasury Board during their consideration of the estimates over the years. First, there is a possibility that this year the increase in expenditures will not exceed the increase in the gross national product; secondly, a concerted effort is being made to curtail and virtually eliminate the policy of allowing some authorities to have non-lapsing funds; and, thirdly, Treasury Board plans in the fisca year 1977-78 to show in the blue book of estimates all loans made to Crown corporations.

On motion of Senator Grosart, debate adjourned.

● (2110)

CRIMINAL LAW

INTERIM REPORT OF THE STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS—DEBATE CONCLUDED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Goldenberg calling the attention of the Senate to the Interim Report of the Standing Senate Committee on Legal and Constitutional Affairs on the subject-matter of the Bill C-83, intituled: "An Act for the better protection of Canadian society against perpetrators of violent and other crime", tabled in the Senate on 13th May, 1976.—(*Honourable Senator Smith (Colchester)*).

Senator Macdonald: Honourable senators, I have been asked by Senator Smith (Colchester), in whose name this order is standing, to inform the Senate that he is unable to be present in the chamber this week. Consequently, rather than having the order stand in his name, he requests the consent of the Senate to have his adjournment of this debate rescinded and, if the Senate is agreeable and no other senator wishes to speak on this debate, to have the inquiry considered as having been debated.

Senator Goldenberg: Honourable senators, bearing in mind that some 40 amendments have been proposed to Bill C-83 in the other place within the past few days, and the government's announcement that it does not intend to proceed with passage of the bill before the summer recess, I believe we should consider the debate terminated, and I so propose.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tem:* As no other honourable senator wishes to participate in this debate, this inquiry is considered as having been debated.

CHRISTIAN EVANGELICAL CENTRE OF CANADA

ACTION OF DEPARTMENT OF NATIONAL REVENUE—DEBATE ADJOURNED

Hon. Eugene A. Forsey rose pursuant to notice:

That he will call the attention of the Senate to the action of the Department of National Revenue in the case of the Christian Evangelical Centre of Canada.

He said: Honourable senators, I can be very brief on this. It is merely that I should like to deliver what I might call an admonition to the government on the subject that I have put down for consideration.

The Hon. the Speaker *pro tem:* I apologize for interrupting the honourable senator, but I must inform the Senate that should Senator Forsey speak now—

Some Hon. Senators: No.

The Hon. the Speaker *pro tem:* I am in error. I apologize, Senator Forsey.

Senator Forsey: I was a little taken aback by that intervention, honourable senators. I hope it has not thrown me completely out of my stride. I began to wonder whether I had been dreaming and this matter had actually been discussed during the time that I was away and I was now at the end of my tether.

The point I want to raise is simply that some time about the middle of last month the question arose of the cancellation of a proposed demonstration which the Christian Evangelical Centre of Canada had attempted to arrange. To the best of my belief, the Christian Evangelical Centre is an organization of Baptists, the Baptist denomination, and it was proposing to have a peaceful demonstration before the Soviet Embassy and to present a petition to the Soviet Embassy for the release of a Baptist minister in Russia, in the Soviet Union, or for a mitigation of the treatment he is receiving in prison. I am not quite sure which was involved. At any rate, it was proposed to make representations on behalf of this gentleman, who is what is sometimes described as a prisoner of conscience.

It appears that the Christian Evangelical Centre had formerly enjoyed the status of a charitable organization under the Income Tax Act; that it had, by inadvertence, apparently, lost its status—I suppose it had not made the proper returns—it was seeking to have itself reinstated as a charitable organization; and it was warned by the Department of National Revenue that if it proceeded with this demonstration it might risk not getting the reinstatement as a charitable organization which it was seeking.

This raised a certain amount of comment and criticism, and the minister, in the other place, I understand, stated that this was merely a courtesy on the part of his officials, a kindly act, a chivalrous act, as the late Mr. Mackenzie King might have called it, intended to prevent the centre from getting into difficulties which it might wish to avoid and which might otherwise fall upon it.

He pointed out that there are four criteria for a charitable organization, in which, of course, he is perfectly correct, and intimated that a charitable or religious organization was not entitled to go beyond the activities described in those criteria.

I think this raises a very serious question of principle—very serious, particularly in view of the fact that now a great many organizations which are classified, officially, as religious, charitable or educational, feel called upon from time to time to engage in petitions or peaceful demonstrations on behalf of prisoners of conscience, or other people who they feel are being oppressed. This is some-

thing that touches, I think, a very large number of such organizations. It could easily touch the churches. Anyone who has read some of the pronouncements of the various churches, and perhaps notably of the Conference of Catholic Bishops, will recognize that the churches, which are, undoubtedly, religious organizations according to the law, are more and more taking up active stands on behalf of prisoners of conscience, on behalf of various disadvantaged groups in society, and are not content simply to alleviate the sufferings of these people by making donations of money to them or simply expressing general views in print about the plight of such people. I think it would be found on examination that a very large number of religious, educational and charitable organizations are engaging in activities of this kind and, to my mind, perfectly properly so.

I suppose the word "charity" can have various meanings. It has come, perhaps, to have a rather narrow meaning nowadays, meaning the doling out of money in a sort of lady bountiful fashion. In fact, its original meaning was certainly much wider than that. Those of us who were brought up on the King James' version of the English Bible will remember that St. Paul's famous chapter, the thirteenth chapter of First Corinthians, uses the word "charity" where more modern translations use the word "love," both being perhaps rather inadequate translations of the original Greek.

Charity, I think, had originally, in the English language, a much wider meaning than that of simply doling out funds to people in distress. It seems to me perfectly proper that organizations which are charitable, educational or religious should engage in the kinds of activities which the Christian Evangelical Centre was proposing to engage in, a perfectly peaceful demonstration, a perfectly orderly petition to the Soviet Embassy. I think it is a very serious matter if this sort of activity is to be considered something which will debar the organizations concerned from enjoying the status of charitable, religious or educational organizations under the Income Tax Act. This is a restrictive interpretation of the act which I think is not justified in law and which is certainly not justified, in my judgment, in common sense, or in, shall I say, charity towards these organizations on the part of the Government of Canada.

I therefore should like to appeal very strongly to the Government of Canada to reconsider the attitude which the Department of National Revenue appears to have taken up in this case. Whether it wants to call it a generous, a kindly, a considerate bit of courtesy and advice, chivalry to the organization in question, or whether it doesn't, is immaterial. The effect of the thing is restrictive. I very much hope that the government may be induced by the remonstrances which I think it has received from a number of quarters, and to which I now add my humble contribution, to take a different line altogether and recognize that a charitable or religious organization which engages in this kind of activity is not in fact going beyond the bounds it should properly observe, but is in fact engaging in activities which are a most legitimate part of its proper functions.

● (2120)

On motion of Senator Macdonald, debate adjourned.

DISTINGUISHED VISITORS IN GALLERY

DELEGATION OF PARLIAMENTARIANS FROM ICELAND

The Hon. the Speaker *pro tem:* Honourable senators, I should like to draw your attention to the fact that we are honoured this evening to have in our gallery, as guests of Madam Speaker, a distinguished delegation of parliamentarians from Iceland. On your behalf, I extend to them a most hearty welcome, and our hope that they will enjoy their stay in Canada.

[*Translation*]

Honourable senators, I am pleased to draw your attention to the presence in the gallery this evening of a distinguished delegation of parliamentarians from Iceland. On behalf of my colleagues I want to extend to them a most hearty welcome. We all hope that you will find your stay in Canada most enjoyable and interesting.

[*English*]

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, June 9, 1976

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

Prayers.

PARLIAMENT BUILDINGS

ACCOMMODATION IN EAST BLOCK

The Hon. the Speaker tabled:

Copy of a letter dated March 18, 1976, from the Speaker of the House of Commons to the Prime Minister of Canada recommending that the East Block become a Parliamentary building.

She said: Honourable senators will have read in *House of Commons Debates* of June 1, 1976, an announcement by Mr. Speaker Jerome, of a decision to bring the East Block under the jurisdiction of Parliament. This decision arises from the deliberations of the Advisory Commission on Parliamentary Accommodation. It had been my intention to make a similar statement in the Senate on the same day that the announcement was made in the House of Commons but, since the Senate was adjourned last week, I am making the statement now.

The Advisory Commission on Parliamentary Accommodation was appointed in the spring of 1974 and is chaired by the Honourable Douglas C. Abbott, P.C. It is composed of members of both houses as well as former parliamentarians. The Speakers of both houses are *ex officio* members of the commission. The Senate is represented on the commission by the Honourable Senator Deschatelets, P.C. and the Honourable Senator McIlraith, P.C.

On December 15, 1975, the Honourable Senator Laird, Chairman of the Senate Committee on Internal Economy, Budgets and Administration, appeared before the commission and provided the commissioners with a very comprehensive and detailed picture of the acute space shortage in the Senate and of the requirements for immediate and future needs. In his presentation before the commission, Senator Laird stressed, forcefully and eloquently, that the primary desire of all senators is to have adequate space allocated for their use in the Centre Block. He also formally requested that consideration be given to the allocation of sufficient additional space for the use of the Senate in the East Block.

I am pleased to report to the Senate that since the presentation of the report by Senator Laird consultation has taken place between the two Speakers, and the question of the availability of the East Block for parliamentarians was subsequently raised by Mr. Speaker Jerome in a letter to the Prime Minister, dated March 18, 1976, a copy of which I have tabled. As stated in the House of Commons on June 1, the Prime Minister, in a letter dated May 15, indicated his agreement with the suggestion, subject to certain reservations, the most significant of which were listed by Mr. Speaker Jerome in his June 1 statement to the House of Commons.

I am sure that all honourable senators will welcome this announcement, and, in conclusion, I might say that when the time comes to allocate space in the East Block consultation will take place between the two Speakers and between officials of both houses. Direction will, of course, be sought beforehand from the Senate Committee on Internal Economy, Budgets and Administration.

[*Later:*]

Senator Flynn: Honourable senators, in view of the tabling by Madam Speaker of the letter from the Speaker of the House of Commons to the Prime Minister recommending that the East Block become a parliamentary building, is it the intention of the Leader of the Government or his deputy to ask that these documents be referred to the Standing Committee on Internal Economy, Budgets and Administration in an endeavour to ensure that the Senate shall at least have a priority in the East Block, which may become a third parliamentary building?

Senator Langlois: Honourable senators, as I understood the statement made by Madam Speaker a short while ago, this intention was mentioned, namely, that the matter will be referred to the Internal Economy Committee.

Senator Flynn: But my point is that Madam Speaker said that consultations will take place between the Speaker of the House of Commons and the Speaker of the Senate, and it seems to me that we should be prepared in those consultations not to allow ourselves to be deprived, as we have been on previous occasions, of necessary space for senators.

Senator Langlois: I agree with this suggestion.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of the number and amount of loans to Indians made under section 70(1) of the Indian Act for the fiscal year ended March 31, 1976, pursuant to section 70(6) of the said Act, Chapter I-6, R.S.C., 1970.

Copies of a Study prepared by the Canadian Broadcasting Corporation, dated April 12, 1976, entitled "Television Coverage of Parliamentary Proceedings—Technical and Cost Profile".

[*Translation*]

CANADIAN NATIONAL RAILWAYS

COSTS OF CONSTRUCTION OF TOWER IN TORONTO—QUESTION

Senator Denis: Honourable senators, may I put a question to the Deputy Leader of the Government in the Senate?

Senator Langlois: Certainly.

Senator Denis: I should like to know when the decision was made to build the CN tower in Toronto. What was the estimated cost of its construction initially, and what is its present cost?

Senator Asselin: That tower was inaugurated a long time ago.

Senator Denis: Yes, I know, but I should like to know how much it was supposed to cost, and how much it did, in fact, cost.

Senator Langlois: In view of the complexity of the question, and especially of the specific facts—

Senator Flynn: And the answer.

Senator Langlois: In view, as I said, of the complexity of the question and especially of the specific data requested, I shall take the question as notice.

Senator Denis: You will find out at the same time as I will.

● (1410)

[*English*]

SENATE AND HOUSE OF COMMONS ACT SUPPLEMENTARY RETIREMENT BENEFITS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Chesley W. Carter moved the second reading of Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder.

He said: Honourable senators, this is not the most glorious day of my career.

Senator Flynn: Who knows?

Senator Carter: Bill C-81 requires very little explanation because the required explanation is already included in the title of the bill.

To deal a little with the background to Bill C-81, honourable senators will remember that on December 18, 1975, the President of the Treasury Board announced expenditure reductions totalling $1.5 billion for the fiscal year 1976-77. These reductions were part of the government's continuing campaign to bring inflation under control. Included in the list of reductions were measures:

(1) to terminate certain programs;

(2) to eliminate the indexation of family allowances;

(3) to reduce loans to crown corporations; and

(4) to freeze the salaries of members of the Senate and the House of Commons as well as the salaries of public servants and officers of crown corporations in higher-salaried positions.

The bill now before us relates to the last reduction enumerated—that is, item (4)—and is one of two bills required to enable the expenditure reductions to be effected. The level of pay of the senior executive categories in the public service and in the crown corporations is being held at the same level for one year through administrative action. The purpose of this bill, then, is:

(1) to defer until the beginning of 1977 the increases in the sessional and expense allowance of members of the Senate and the House of Commons which would have been automatically provided at the end of 1975;

(2) to defer until 1977 the escalation of the extra salaries and allowances payable to ministers, parliamentary secretaries and other members of the Senate and the House of Commons receiving remuneration over and above their sessional allowances; and

(3) for 1976 to limit to $200 the portion of the monthly increase in the supplementary retirement benefit that is attributable to the 11.3 per cent rise in the benefit index during the 12 months ending September 30, 1975.

According to a recent estimate, the freezing of sessional expense and other allowances will result in savings of $750,000. The significance of this bill lies in the measure of leadership it provides in the battle against inflation—a leadership which, I might say, other legislatures in Canada, labour unions, journalists and broadcasters have been very reluctant to follow.

The amendments to the Senate and House of Commons Act which were passed in the spring of 1975 fixed the sessional allowance at the rate of $24,000 per annum for the period from July 8, 1974, the date of the general election, to December 31, 1975. Thereafter the level of the sessional allowance was to be increased in accordance with annual percentage changes in the average weekly wages and salaries of the industrial composite index in Canada, as determined by Statistics Canada. A similar provision was included in respect of the adjustment of remuneration which certain members, such as the Speakers and ministers, receive for the performance of additional duties, and the corresponding expense allowances.

Subclause 1(1) of the bill amends subsection 34(1) of the Senate and House of Commons Act by continuing the $24,000 level for another year—that is, to December 31, 1976. Subclause 1(2) amends subsection 34(3) of the act, and provides that the new system for adjustment will commence on January 1, 1977. Subclause 1(3) amends subsection 34(5) of the act which, as originally drafted on first reading, was the cause of controversy among certain members of the Opposition and in the news media. As a result, the President of the Privy Council announced on April 29 that an amendment would be introduced which would also freeze the expense allowances for the period January 1, 1976 to January 1, 1977. This was done in the House of Commons committee after second reading of the bill. The new subsection 34(5) of the act postpones until January 1977 the commencement of the new system of adjusting the extra remuneration of members mentioned in the background explanation referred to earlier.

● (1420)

Clause 2 amends the Supplementary Retirement Benefits Act. This amendment limits to $200 the monthly increase in pensions payable during 1976, which results from the 11.3 per cent increase in the average consumer price index for each of the 12 months ending in September, 1975 over the corresponding 12 month-period ending in September 1974. In practice this will limit the amount of pension increase payable to some 50 to 100 pensioners, including the former Governor General and several retired federal judges, with the balance being made up largely of retired senior long-service Public Service employees, and officers of the Canadian Armed Forces and the Royal Canadian Mounted Police.

This amendment could provoke a debate, since it is the first time that the federal government has proposed to withdraw an unconditional statutory right to a portion of such a benefit which is already in payment. While the Department of Justice has advised that it is within Parliament's right to pass legislation of this type, the staff relations implications of the introduction of this principle are such that a prolonged debate would be most unfortunate.

Senator Flynn: What do you mean by that?

Senator Grosart: You were not supposed to read that. That was for your own information only.

Senator Carter: Well, we can have a debate in this house, too, you know. This is second reading.

The effective date of these amendments is December 31, 1975. No increase was made in the amount of the January payments under the Senate and House of Commons Act in respect of sessional allowances or remuneration for additional duties of Members of Parliament. As Bill C-81 did not come into force in January, payment of the full amount of the statutory pension increases has been made for the month of January. Recovery of the amount of these payments in excess of $200 will have to be made from subsequent payments. The same will be true of the expense allowances paid at the increased rates since January 1, 1976.

Senator Flynn: Honourable senators, I am not exactly aware of the reasons Senator Carter was chosen, or offered his services, to sponsor this bill. I thought the motion would have been seconded by Senator Forsey, since he was the first to speak about voluntary restraints.

Senator Forsey: Or Senator Lang.

Senator Flynn: Perhaps Senator Lang, yes. I just want to say now that I find myself provoked into moving the adjournment of the debate because of Senator Carter's references to the last part of the bill concerning the freezing of certain pensions or, at least, controlling the increases in certain pensions to $200 a year. I think it is worth adjourning the debate until tomorrow on at least that aspect of the bill.

Senator Hicks: Honourable senators, is the restriction to $200 a year? It seemed to me, as I read it, that it was a restriction to an increase not exceeding $200 a month.

Senator Flynn: No, no; you should never assume there is anything logical in the government's policy.

On motion of Senator Flynn, debate adjourned.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate resumed from yesterday the debate on the motion of Senator Carter for the adoption of the report of the Standing Senate Committee on National Finance on the estimates laid before Parliament for the fiscal year ending March 31, 1977.

Hon. Allister Grosart: Honourable senators, we have before us the annual report of the Standing Senate Committee on National Finance on the estimates. It has been before the Senate for some days now so I presume it has been well read. Senator Carter explained it to us yesterday. I do not propose to go through it in a detailed way, but rather to make some general comments on the most important item in the estimates, namely, the fact that once again the projected government expenditures are startlingly increased and are out of all proportion to the ability of the economy to provide the money for them.

The main budget estimates, compared with the main budget estimates of a year ago, show an increase of 19.3 per cent—that is to say, some $6.2 billion. When you compare that with the increases in government expenditures over the last four years, you will see that all of them have been beyond the productive capacity of the Canadian economy to pay. In the last four years the increases in federal government expenditures have been 17.3 per cent, 18.9 per cent, 26.5 per cent, and 19.3 per cent. All of those have been in excess of—and far in excess of—the increase in the GNP or the GNE, whichever one you like to take. They are also far in excess of the increase in the price deflator, or the consumer price index.

Honourable senators will not be surprised to learn that this has happened again, but I suggest the fact that the government has not yet decided to restrain its expenditures is surprising. There is overwhelming evidence that these excesses in government expenditure are a major factor in the problem of inflation. Economists, academics, businessmen, and leaders of the economy have all pointed out, without contradiction, that excessive government expenditure is one of the major causes of inflation.

A second factor, and perhaps more serious, is that excessive government expenditures restrain the productivity of the country, and it is only from that productivity that the money can come to meet those expenditures. This is caused by the steadily increasing encroachment of all governments on the potential of the economy to produce. That increase in government encroachment is well over 40 per cent now, and we do not know where it will end. In spite of the well-known fact that spending in the public sector does not produce productivity to the same extent that spending in the private sector does, nevertheless, this government continues to increase its expenditures. This encroachment by the federal government, I might say, is greater than that of the provincial governments.

At the present time and measured from 1973, the result is that we are some $7 billion below our potential. That is $7 billion lost to Canada. There is no question but that this excessive government expenditure has greatly added to that alarming figure.

Let us consider the last two years during which there have been fantastic increases in federal government expenditure—the 26.5 per cent increase last year, and the 19.3 per cent increase this year. What was the increase in real GNP? The year before last it was 2.8 per cent and last year it was 0.2 per cent. I recognize at once that these figures are not exactly comparative, because one represents a nominal increase, and the other a real increase.

● (1430)

The effect on unemployment has been drastic, and appears to be getting more drastic. It is a fact that, in terms of workers, unemployment in manufacturing in Canada, which is where potential productivity must come from, has

actually been lower, time and time again, than it was in 1973. At a time when the population of Canada is increasing, there are less people employed in manufacturing than in 1973. These are facts that appear to be ignored completely in government planning. In the committee, and in the numerous press releases that we receive from the government, we are given excuses and explanations. Not one of them, in my opinion, stands up to the facts. We have heard the Leader of the Government and Cabinet ministers say, over and over again, "It is not really our fault; the provinces are the ones who are escalating their expenditures." The fact is that in the last fiscal year federal government expenditures increased by 16 per cent, and those of all provincial governments increased by only 11 per cent, so that old excuse is no longer available to those who would apologize for and defend these excessive expenditures.

We have had the oil equalization payments. It is quite true that oil equalization payments have added, in a bookkeeping sense, to the total expenditures of the government, but it does not appear to have occurred to anyone that there is another way to equalize oil prices to consumers across Canada. As Senator Phillips said yesterday, the only thing that ever occurs to this government is to raise taxes. Why were not some of the available alternatives adopted? I do not know, and there certainly has never been any explanation.

Another excuse that we get—it is mentioned in the committee's report, although not as an excuse because the report is a statement of fact—is that slightly more than 56 per cent of the budgetary items in the main estimates are statutory. That, in the past, has been very useful statistically, because it broke down the total expenditures of the federal government into statutory items—that is, items which are required to be paid under existing statutes—into new votes, which amount to something like 30 per cent of the total; and then, finally, into the non-budgetary items, such as loans, investments and advances. This has been useful statistically, but in the last few years the government has started to use it as an excuse to say, "We cannot do anything about them; these are statutory requirements." Of course they can do something about them. It is no excuse whatever to say, because a statute that is 10, 20 or 30 years old requires certain expenditures to be made, that we cannot look at the statute and amend it. Surely the job of the government is to look at all causes of expenditures and ask, "Can we save?"

It is true that Mr. Chrétien, the President of the Treasury Board, did say that they are now doing this. But this announcement was made as if it were something novel; it was to the effect that this year the government is, for the first time, going to look at all the expenditures made under the various statutes and ask themselves, "Do we have to spend this money?" However, I must say there is evidence that the government is already doing this.

The final excuse, and one that used to be made quite frequently by the Leader of the Government, was, "Where do we cut? There is no place we can cut. We are down to the bone; we have looked at everything." Fortunately, or unfortunately, this excuse has been blown up, because when the pressure was on—last December, for example—the President of the Treasury Board announced, "Oh, yes, we have found that we can cut $1.5 billion." That is a substantial cut, but it was two or three days before it got through to the public, as a result of the remarks of various commentators, that this was not a cut at all in current expenditures, but a cut in spending intentions. The government had intended to spend another $1.5 billion, and would have spent it had there not been pressure from the public and other quarters to do something about it. About half of that sum was to be spent on the expansion of existing programs, and the other half on new programs.

We have other evidence that when the pressure is on—and I hope it will continue to be on this government—they can find places to cut. A good example is the unemployment insurance fund. The Economic Council of Canada has pointed out that at least 10 per cent of unemployment is a direct result of the disincentives to work created by the present unemployment insurance regulations. Again it is true that the government has announced plans for, and has moved in the direction of, tightening up some of the waste and loss in this area. I would suggest that there is a long way to go before the unemployment insurance fund, a good thing in itself, ceases to be a major disincentive to some Canadians to work. Their work adds to the productivity, and it is only from productivity that unemployment insurance benefits can be paid—unless we continue to borrow money and run up the public debt, as we are doing.

I think there is a better answer than the excuses and explanations we are continually given. The answer, I would suggest, honourable senators, is for the government to suit their actions to their words. They should restrain their rhetoric for a while, and start to do something positive. To what rhetoric do I refer? I refer to a clear statement of government policy. Those who have attended the meetings of the Standing Senate Committee on National Finance will recall that it is the stated policy of this government to contain increases in federal government expenditures at or below the level of the increase in the GNP. That was a clear statement of policy two years ago, and it was made again last year. In spite of this, nothing has been done to make the policy a reality. This year again the increase in government expenditures will be at least double, or very close to double, the increase in the GNP. I say that as an approximate figure, because we do not know what the GNP will be for the current fiscal year.

One of the aspects of inflation discovered only in this last round of it is that among its major ingredients is the expectation of inflation. It is the expectation of inflation that causes great increases in wage settlements. In Canada today our average wage is 5 per cent higher than the average wage in the United States, in spite of the fact that our productivity per worker is running consistently behind the productivity per worker in the United States. I am not against workers receiving a fair wage, a higher wage, or an adequate wage; but I am concerned about the influence of government spending on creating this expectation, on maintaining it, and, therefore, on forcing labour and others, a year in advance—even two years, and sometimes three years, in advance—to insist on wage settlements that will meet the anticipated increase in the cost of living, because the government itself continues to outstrip everyone else in its increased demands on the economy. No segment of the whole economy, apart from the government, is increasing its demands at the rate of 19 per cent.

● (1440)

The federal government used to say, "Well, we are giving leadership to the provinces". But at the moment, honourable senators, the leadership they are giving to the provinces is leadership of the wrong kind. I say that because the evidence is quite clear that the governments of the provinces have tackled this problem, and have done more than just hand out rhetoric. The governments of the provinces, as I mentioned a moment ago, have been able to contain the rate of increase in their expenditures to about the level of the inflation rate, whereas the federal government has achieved about twice that rate. I have said that these are explanations and excuses—and, of course, they are—but, as I have indicated, I do not think any of them will wash with anybody who approaches this problem from the point of view of common sense, or of the danger to the economy from this continuing increase in federal government expenditure, when we have evidence from the government itself that it can do something if it has the will to do it. The evidence is that it does not appear to have the will to do anything but make announcements.

Yesterday Senator Phillips, when speaking on energy policy, made the interesting observation that the government's first approach to the energy problem in 1973 was called "An Energy Policy for Canada." Very recently—this year, in fact—that title was changed. The latest ministerial statement is called "An Energy Strategy for Canada". This is the same type of problem that we are facing in respect of government spending. We have had policies and strategies, and I suggest to the Senate that what we need now is government action. We have no need of further polices and strategies; we need a clear statement by the federal government that they will implement this announced policy of maintaining the rate of increase in federal government expenditures at or below the rate of increase in the gross national product, and that they will do it this year. This would solve problems for everybody. In addition, it would solve the problem created by the expectation of rising inflation rates. The solution lies in the government's own policies. The government simply has to say, "We do not announce this merely for the future; we really mean it. This is the policy of the Government of Canada, and therefore that is all the money that is available".

Honourable senators, it is easy to anticipate the level of growth in GNP. The projections are never more than a percentage of a point or so out. All the government has to say is, "That is our policy, and we are going to implement it". Whatever demands are made, they can say, "Sorry, there is no more money." This is what business does; this is what individuals do. Even charitable organizations have to do it this way. They say quite simply, "We do not have the money, so we cannot give you any." But in such a case what does this government say? It simply says, "We will tax the people to get the money". That is the essence of the problem, honourable senators. I suggest that an easy way for the government to avoid this problem is for them to say, "That is our policy and we will implement it," and then to inform their own departments, suppliants, demanders, that that is the policy. If they then want to increase their spending, the government simply says, "Sorry, we announced our policy two or three years ago, and this year we are going to implement it; this time we really mean it".

Does anyone think that will happen? I cannot see why not. As I have said before, this is how it is done by business, by individuals, and even by charitable organizations. So why would it not be done this way by government?

Furthermore, honourable senators, I suggest that in this area much can be done by the National Finance Committee. The remarks I have made may appear on the surface to be partisan. I do not intend them to be partisan. It does not matter which government is in power—no matter what its political stripe—if it is in this type of situation, then it has to take steps to correct it. The deliberations and inquiries over the years by the National Finance Committee have generally been non-partisan. We have not engaged in witch-hunts, although in another place there has been some witch-hunting—and probably with some justification, because there are plenty of witches to hunt in that big blue book of main estimates and in the supplementary estimates.

I myself have reached the conclusion that we do not spend enough time in committee study of the main estimates. We have had them before us since February, and we are now bringing in our report. Obviously it is not a matter of calendar time; it is a matter of the time the committee is prepared to spend. I shall not go into detail now as to how that might be done, but I believe that the committee can make a useful contribution in this area that I have been discussing. It has a role to play in the control of government expenditures, particularly insofar as it concerns the increase in government expenditures year by year.

Honourable senators, in spite of the criticisms I have made of policy, I am very much inclined to compliment the Treasury Board, and also its president, the Honourable Mr. Chrétien, first of all for his frankness—which has been greater than that of any other minister I have questioned before. I also compliment him because he has proved to be receptive to ideas, and so has the Treasury Board. The report mentions some of the improvements made in the presentation of the main estimates, and these are a direct result of suggestions made by the Standing Senate Committee on National Finance. There have been several others in addition to those mentioned in the report. So, honourable senators, I believe there is evidence that our National Finance Committee can make a greater contribution. I intend to pursue that somewhat further with the chairman, the deputy chairman, Senator Carter, and others.

Hon. Senators: Hear, hear!

Senator Carter: Would the honourable senator clarify a point made in the course of his remarks? I understood him to make a comparison between the rate of increase in the expenditures of provincial governments and the rate of increase in the expenditures of the federal government. We know from the figures available that the provincial expenditures have been rising at a rate which is rather higher than that of the federal government expenditures. But if I understood him correctly, he stated that the increase in expenditures by the provincial governments for this year amounted to approximately 11 per cent while the increase in federal government expenditures was of the order of 16 per cent.

Senator Grosart: Or 19 per cent.

Senator Carter: In calculating these percentages, has he taken into account the fact that for the first time we are now including old age security and guaranteed income supplement payments in the budgetary items? Do they form a part of the 19 per cent?

Senator Grosart: Yes, but of course this is another of these explanations or excuses I referred to. That money was spent. The federal government taxed to obtain that money for the old age security fund. It is still there. It is a mere bookkeeping entry. They have taken that 2 per cent, which is about what it is, and included it in the main estimates. But it still constitutes an element of increase in government spending because it is there.

The same thing can be said of the unemployment insurance fund. The unemployment insurance fund anticipated costs for this year to amount to $1 billion, and they certainly will amount to $700 or $800 million, but these are not in the main estimates at all. These things cancel themselves out.

● (1450)

I am saying that the total anticipated expenditures of the two levels of government are in that position. I say 16 to 19 per cent for the federal increase, because it depends on just what figures are taken. Certainly the base figures to indicate the difference between the federal and provincial expenditure increases are 16 and 11. That is an analysis of their budgets or spending intentions for the year—11 per cent for the provincial and 16 per cent, perhaps 19 per cent, depending on the base, for the federal. If the figures 11 and 16 are selected, they give a reasonable comparison.

Senator Lamontagne: Do these estimates include also the transfer payments to the provinces?

Senator Grosart: Of course. I did not mention that as one of the excuses. The excuse that the federal government transfers some of this money to the provinces is the daddy of them all. It transfers money to individuals; it transfers money every time it pays it out. We get this comparison every now and again, and someone says that the federal government transferred these moneys to the provinces. Of course it did, but it was a federal government decision to raise the taxes to spend that money. It is an entirely different question, if anyone wishes to discuss it, as to whether they should have spent some of that money on transfers. I believe transfers to the provinces run at about 20 per cent. Those comparatives are comparatives in spending by the two levels of government.

Senator Molgat: Would the honourable senator permit a question? Does the federal government budget figure include the oil revenue transfer or subsidy to Eastern provinces?

Senator Grosart: Yes, of course; it amounts to about $1.5 billion this year. As Senator Phillips pointed out yesterday, here again the federal government said it would tax for this purpose. It may be a good purpose. I do not say that all spending by the government is for unnecessary purposes. All I say is that there was a decision of the federal government, for one reason or another, to take this large amount of money, this percentage of money, out of the economy by taxation. That is all I say. We could spend all day going through the items which have been discussed already in committee.

[Senator Grosart.]

Senator Molgat: I have a supplementary question. Is it not correct to say that in this particular case a good deal of the tax is not levied on Canadians, but is, in fact, the export tax, and hence paid by the Americans?

Senator Grosart: That is right. That is quite true, but it will not show in the main estimates as a tax of that nature, of course. It was revenue received and spent.

Hon. Hartland de M. Molson: Honourable senators, I had not intended to speak on this report of the Standing Senate Committee on National Finance. However, after I had looked at it and thought about it a little, I decided that I do not want this report to be dealt with and adopted without making a few comments which, I may say, will be extraordinarily brief.

In my opinion, the report itself is quite factual, and I have no criticism of the members of the committee for the quality of the report. It is certainly very brief, considering the figures involved. I do wish to say, however, a word about the contents of the report. I think back on the problems created by inflation and the steps taken by the government in an attempt to cope with it, such as the establishment of the anti-inflation program. Looking at it today, one would say that the public generally accepts the steps being taken to offset the high rate of inflation. Business—much maligned business, incidentally—has shown itself as being in favour of this effort to slow down the expectations of inflation. The only disappointing factor, perhaps, is that labour has categorically denied that it has any application to our problem today. In my personal opinion they are wrong, and it is most unfortunate that that large and important segment of the economy is not wholeheartedly with the public, with business and with the government, in support of the medicine needed to cure the problems of inflation.

My own feeling, in looking at the 1976-77 estimates, as brought into focus by the report of the National Finance Committee, is one of great disappointment. I thought that the government, when it started to cope with our number one problem, would undoubtedly set the example and the pace. Since then I have really been discouraged, I could almost say that I do not believe there has been any sincere effort on the part of the government to cut its expenditures. I made this remark earlier, when speaking on the subject of inflation. I believe that when we consider the roll-back in wages, the efforts to control prices and margins and all other elements, and then examine the figures as shown in the Senate committee's report, they cannot be otherwise than disappointing to all of us. I think we would be remiss in the Senate if, in dealing with this report, some of us did not express disappointment in this respect. It is in no sense a political criticism. As far as I am concerned, I do not mind a bit the colour of the government. I believe the government started to cope with inflation and made some very imposing statements and showed a great deal of activity; but it is just terrible to see the record of the government expenditures.

If we refer to paragraph 4 of the report of the committee, which includes a table, we see that the main budgetary estimates for 1976-77 are $6,207 million, or 19.3 per cent, higher than the main budgetary estimates of the year before. Then the paragraph continues:

> This increase does compare favourably with the percentage increase of 26.5 per cent requested in the Main Estimates 1975-76 over Main Estimates 1974-75.

We are talking of the crisis inflation of about 15 per cent; we are talking of coping with it; we are talking of wage rate increases limited to 10 per cent. How can we reconcile that with these figures of government expenditure?

The table contained in paragraph 4 of the committee's report indicates that in this fiscal year, 1976-77, the proposed increase is 19.3 per cent. Last year, 1975-76, the increase was 26.5 per cent; the year before that, 1974-75, it was 18.9 per cent; and the year before that, 1973-74, it was 17.3 per cent. Do we honestly wonder that we have inflation? What do those figures mean to us?

A few years ago when we were frightened by the spectre of inflation we used to say that if we could only achieve a quiet rate of inflation of 2 or 3 per cent per year it would be quite acceptable, and we could go on *ad infinitum*. I do not believe that some economists ever agreed with that. They thought that the ideal would be no inflation factor. But whatever rate is accepted, is it reasonable for the federal government to increase its spending by 17 per cent, by 26 per cent, and then by 19 per cent in three years, and yet tell people that their wages must not increase, prices must be held, margins must be watched, and bank charges and insurance premiums must all be held? How can we have this sort of double standard? Surely the buck stops right here at the federal government level with regard to impact on inflation. I do not think the federal government can pass the buck to the provinces or to the unions, and I do not think they can pass it to business.

● (1500)

The promise of future improvement on the part of the government was encouraging, but it was halfhearted and it did not have the desired effect. People are wondering today why the anti-inflation measures do not seem to have reduced future inflation expectations on the part of the public. I think the primary reason is that the credibility of the government, and with it the credibility of Parliament, has been affected by this lack of leadership. I think it is safe to say that some disappointment has been reflected in recent figures from the Gallup poll. I do not say that government spending has had too much to do with it, but, on the other hand, government spending is a factor in credibility, and credibility must be a factor, surely, in Gallup polls.

In our examination here we should not busy ourselves too much with the actions of provincial governments. It is quite true that their rates of budget increase have also been rapid, but at the moment it looks as though the federal government has taken a quite comfortable lead.

I merely wish to say in closing, honourable senators, that I for one am disappointed in the performance of the Government of Canada in dealing with inflation. I am disappointed that it did not have, if I may use the term, the guts to cut $1 billion or $1.5 billion out of the figures we have in that report.

On motion of Senator Langlois, debate adjourned.

NATIONAL LOTTERY

PROPOSED INCORPORATION OF LOTO-CANADA—ORDER DISCHARGED AND INQUIRY WITHDRAWN

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Forsey calling the attention of the Senate to the proposed incorporation of Loto-Canada.—(*Honourable Senator Deschatelets, P.C.*).

Senator Deschatelets: Honourable senators, is my understanding correct that the Senate has to rise at 3.30 this afternoon?

Senator Langlois: There is an Order of the Senate that on Wednesdays we do adjourn at 3.30 p.m.

Senator Flynn: Honourable senators, I was about to raise a point of order with respect to this particular matter. Since the supplementary estimates (A) referring to this matter were tabled yesterday, it seems to me that the Senate is seized of the same problem on two fronts. Is it now proper to keep this inquiry on the Order Paper? In respect of this particular matter, it would seem more appropriate to wait for the report of the National Finance Committee, because it is open to speculation whether that committee will deal with the matter in the same manner as that in which it has been presented to us by Senator Forsey.

In order to have an orderly debate, I suggest that the inquiry be withdrawn from the Order Paper, and that the matter be discussed when we consider the report of the National Finance Committee on supplementary estimates (A).

Senator Deschatelets: That is pretty well what I had in mind myself, honourable senators. We shall certainly have an opportunity to deal with the matter when we receive the report of the National Finance Committe. I am not sure whether Senator Forsey agrees to the withdrawal of his inquiry.

Senator Forsey: D'accord.

The Hon. the Speaker: Is it agreed, honourable senators, that this inquiry be withdrawn?

Hon. Senators: Agreed.

Order discharged and inquiry withdrawn.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, June 10, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of operations under the Crop Insurance Act for the fiscal year ended March 31, 1975, pursuant to section 13 of the said Act, Chapter C-36, R.S.C., 1970.

Copies of Treaty between Canada and Sweden concerning extradition, dated February 25, 1976.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday, June 15, 1976, at 8 o'clock in the evening.

Honourable senators, in advising you of the business before the Senate next week, I shall deal first with the committees.

On Tuesday at 2 p.m. there will be an *in camera* meeting of the Legal and Constitutional Affairs Committee on conflict of interest. The National Finance Committee will meet also at 2 p.m. to consider further its report on Canada Manpower. The Special Joint Committee on the National Capital Region will meet at 3.30 p.m. and the Joint Committee on Regulations and other Statutory Instruments at 8 p.m. In addition, the Foreign Affairs Committee is expected to meet on Tuesday to complete its consideration of Bill C-20, respecting citizenship. The time of the meeting has not yet been set.

On Wednesday, a meeting of the Banking, Trade and Commerce Committee is called for 9.30 a.m. to consider certain briefs submitted on Bill C-58. This meeting will probably continue in the afternoon. The Agriculture Committee will meet at 10 a.m. for further consideration of its report on Kent County, New Brunswick, and the Special Committee on Science Policy has scheduled a meeting for 3.30 p.m.

On Thursday, the National Finance Committee will meet again to consider its report on Canada Manpower. The Health, Welfare and Science Committee will meet at 10 a.m. to consider the feasibility of setting up a special committee to study crime and violence in Canadian society.

Supplementary estimates (A) for the present fiscal year have been referred to the National Finance Committee, and should be dealt with by that committee next week, but the date and time of such consideration have not yet been decided upon. I am informed that the National Finance Committee is endeavouring to arrange a meeting for Wednesday morning to consider supplementary estimates (A), if it is possible for the minister to be in attendance.

It would appear that no legislation will be coming to us from the other place next week. However, with the committee work, the items on the Order Paper and Bills C-20 and C-58 still with us, I think we can anticipate a busy week.

Senator Grosart: I wonder if the Deputy Leader of the Government would consider including in these advance notices also notices of meetings of subcommittees and steering committees? I suggest that because it might have the effect of convincing chairmen and others to give more notice than some give at the present time.

● (1410)

Senator Langlois: I have no objection to accepting this suggestion, which to my mind is a good one.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting on Wednesday next, June 16, 1976, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators have heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

NEWSPAPER ARTICLE—COMMUNICATIONS BETWEEN CANADA AND UNITED STATES—QUESTION

Senator Austin: Honourable senators, I have a question for the Leader of the Government in the Senate. It relates to remarks attributed to Senator Davey by the *Globe and Mail* this morning, referring to the Ambassador of the United States, Mr. Enders, as having made a regrettable intrusion in Canadian domestic affairs. I should like to ask the government leader what state practice is between Canada and the United States in terms of the communication of the positions of each of the two governments to the other, and to the legislative process in those respective countries. I can see, by way of comment—

Senator Flynn: No comment. A question is a question.

Senator Austin: I make it in order that I might ask a further question while I am on my feet.

Senator Grosart: Ask your question.

Senator Austin: I can see that there is an advantage to each of the two countries in having this kind of information—

An Hon. Senator: Order!

Senator Austin: I wonder if the government leader can tell us whether the government thinks it appropriate to its position that a foreign government be able to make representations to people in a legislative process in Parliament in a case where that representation is contrary to the government's domestic policy?

Senator Langlois: Honourable senators, I had but a casual look at the news item in question before I came into the house this afternoon. I would like to take the question as notice. However, I would add that I have been informed it is very likely the Minister for External Affairs will make a statement this afternoon in the other place on this very matter.

Senator Flynn: I rise on a point of order. I suggest the premise of Senator Austin's question is not entirely accurate, because the position of the United States was conveyed to the Senate committee by the Secretary of State for External Affairs.

Senator Austin: I would ask the government leader, following Senator Flynn's point, to take into account that particular procedural technique, which I do not believe makes any substantive difference to the first question I asked.

Senator Flynn: The government has already answered your question by doing what it did.

Senator Grosart: I wonder if I might ask a supplementary. If it is not the function of a foreign ambassador in Canada to convey the views of his government to the Government of Canada, what is his function?

Senator Langlois: Honourable senators, I shall take the question put to me this afternoon as notice, and endeavour to cover all the points embraced by the question and supplementary remarks.

SENATE AND HOUSE OF COMMONS ACT SUPPLEMENTARY RETIREMENT BENEFITS ACT

BILL TO AMEND—SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Carter for second reading of Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder.

[*Translation*]

Senator Flynn: Honourable senators, Bill C-81 raises a question which cannot be answered negatively even if it is unwarranted or theoretically wrong. We know that the main object of the bill is to freeze the sessional and expense allowances for members of Parliament—that is, members of the Commons and of the Senate.

It evidently proceeds from a statement made by the Prime Minister on October 13, 1975 concerning the application of price and wage controls and more directly from the Prime Minister's televised statement on December 18, 1975 when he explained what practical steps he intended to take to enforce the legislation passed by Parliament to that effect.

I quote from the Prime Minister's statement:

> The government, with the support of the Liberal caucus—

I find that quite suave.

> The government, with the support of the Liberal caucus, will ask Parliament tomorrow to cancel the 7 per cent salary increase which members of Parliament, senators and cabinet ministers are scheduled to receive on January first. I am confident that the opposition parties will support this salary freeze as an example of personal restraint.

I find that the statement has quite interesting overtones and connotations since it was first necessary to obtain the support of the Liberal caucus. But it was rumoured at the time that the caucus was not unanimous on this matter. As for getting the opposition parties' support, well, that was not very difficult. What position can the opposition parties take on such a legislation other than to accept it?

I recall that some time later Senator Forsey had reiterated the idea that parliamentarians had to set an example, an example of personal restraint. Again I recall telling him that if that was all that was needed in order that Canadian people accept the control program the government had just had passed by Parliament, I fully agreed. I still fully agree with this measure passed by parliament if its result will be to convince people in general, manufacturers and consumers alike as well as labour unions, that we have to restrain ourselves.

But I am far from being certain that this example really is or has had this effect since it was announced, for in fact the freeze was implemented before the legislation had been passed, as everybody knows, except for expense allowances; we will be forced to reimburse a few dollars, but that is not very serious. However, let me say that if we had the guarantee that this decision could have the effect of setting an example, I would be enthusiastic about this measure.

I doubt it very much, and this for several reasons. First of all, the government has applied those measures in a different manner to various groups. The government's objective is mostly to convince people that members of Parliament, senators and ministers, on the matter of compensation, should set an example; he even mentioned the salaries of senior public servants, and I quote:

> The salaries of senior civil servants will be frozen for the next fifteen months, together with the salaries of federal and provincial supreme court judges, senior officers of the armed forces, etc.

I have already mentioned here in the Senate that this statement by the Prime Minister was mostly a matter of public relations to try to gain more credibility from the people for his control program, and that the Prime Minister had gone much too far when mentioning the freezing of the salaries of federally appointed judges since, a short while before, we had passed a law granting judges a 33 per cent salary increase, if I remember well, or something like that. It was clearly understood, and this had been empha-

sized in Parliament, that the judges would receive that salary for at least three years and that no other bill providing for further increases would come before Parliament until 1978.

So, when the Prime Minister told the Canadian people that the salaries of judges would be frozen, he was not saying anything new, since they were already frozen for three years, as was mentioned when the bill came under study.

● (1420)

I suggest that Bill C-81, like the Prime Minister's statement, is also part of the government public relations program to get a little more credibility from Canadian people.

However, what I especially want to point out is that the idea of "setting the example" has not convinced many people. First it did not convince the legislators at the provincial level, because nearly half the provincial legislative assemblies—from the moment the Prime Minister announced the control scheme, the enforcement of guidelines on wage increases—voted themselves higher salaries, if not at the maximum permitted by the guidelines, at least close to it.

In the case of Manitoba, for instance, the increases were geared to the rise in the cost-of-living index. In New Brunswick, they allowed themselves increases of 10 per cent. In Quebec, they wanted to go for 13 per cent but the Quebec Anti-Inflation Board ruled that it would be limited to $2,400. The final decision is not made, but it is certain that the National Assembly members will allow themselves an increase of at least $1,800 a year and that their compensation will be higher than that of the members of the House of Commons and senators. In Saskatchewan, they approved a 12 per cent increase in May 1976, retroactive to the month of July 1975. In Alberta, the bill was passed in October and they ended up with 9 per cent more. In Prince Edward Island, a 75 per cent increase was enacted at the beginning of 1975. In Ontario, nothing has been done yet. In British Columbia—and I say this in the interest of justice to clear up the situation and shed complete light—a 10 per cent decrease was voted. Of course the mistakes made by the Barrett administration had to be corrected. Until then, British Columbia parliamentarians had been treated with extreme generosity. I have not been able to determine the situation in Newfoundland or in Nova Scotia. But what I want to demonstrate by these figures is that the example that the Prime Minister wants the Canadian Parliament to give is not an example that other legislatures deem fit to follow.

Second, by giving this example alone, with all the publicity made about provincial legislature increases, we are running the risk that our sacrifice will go unnoticed. We are the scapegoats. Nobody will give us credit for our gesture.

I know that in a number of cases here this sacrifice will not really be very great. But for several others, the freeze on the 7 per cent increase—and note that it is only an increase of 7 per cent, while the guidelines allow up to 12 per cent—will mean real sacrifice, while in several other areas of the legislative system in Canada, as I pointed out, they have awarded themselves increases.

[Senator Flynn.]

Third, it remains that the policy of the government as regards wages, which provides as a general rule, say, increases not exceeding 12 per cent, except when there is need for catching up or for historical relationships, well, these guidelines have now become not maxima but minima, as was seen during negotiations. At the present time, negotiations start from a minimum, which is the maximum set in the guidelines. In that regard, I say that the policy of the government has not had the results we were entitled to expect. Before those measures, it was possible in many cases—and I have personally seen certain cases—to start negotiations on a basis of an 8 or 9 per cent increase. But since the guidelines set a maximum of 10 and 12 per cent, perhaps a bit more according to circumstances, these maxima have become minima and that is why, for all practical purposes, the inflation rate has not changed much since October 1975 as regards wages.

Anyway, I am prepared to set an example. I regret that the other legislative bodies in Canada did not see fit to do the same, and especially that we should do so without taking any credit for it and by sacrificing the security of many among our own. But this is one situation where we have no choice.

I shall simply add one word on the clause of the bill dealing with the freeze on supplementary benefits, to which Senator Carter alluded yesterday evening. I read and reread this clause, but I am not quite sure of its significance. I think I was wrong yesterday when I suggested that the increased ceiling was only $200 a year; I think it is $200 a month, as mentioned by Senator Hicks and Senator Carter. But it is his statement which captured my attention, as well as the attention of the members of the Senate who listened carefully to Senator Carter yesterday, which appears on page 2187 of yesterday's *Hansard*. [*English*]

> This amendment could provoke a debate, since it is the first time that the federal government has proposed to withdraw an unconditional statutory right to a portion of such a benefit which is already in payment. While the Department of Justice has advised that it is within Parliament's right to pass legislation of this type, the staff relations implications of the introduction of this principle are such that a prolonged debate would be most unfortunate.

There was some intervention which reads:

> SENATOR FLYNN: What do you mean by that?
>
> SENATOR GROSART: You were not supposed to read that. That was for your own information only.

I am quite sure that was the case. It was for Senator Carter's information only. But I commend him for having conveyed this information to the Senate, and I still want to know exactly what the problem is behind this. I think it is the duty of the Senate to dig into this. So, unless Senator Carter is able to give me more satisfactory information as far as this section only is concerned—the rest is no problem; we know exactly what it is and there is no dispute about it—I think this bill should be referred to committee. We will find out there whether some people are by this provision going to be denied something to which they are entitled. Not only is it important, but it is the duty of the Senate to do that, and I thank Senator Carter for having

given us the opportunity, by his disclosure of this rather valuable information, to render yet another valuable service to our country.

● (1430)

Hon. Hazen Argue: Honourable senators, this bill will, I am sure, receive the support of the Senate, because we are always prepared to go along with those who say that a sacrifice should be made and we should forego any benefits we may have as of right.

There is one thing which disturbs me about the general climate in the country with regard to this kind of action. It seems, no matter what it does with respect to its pay, that Parliament is criticized vehemently by the press. We were criticized when it was proposed that our indemnity and allowances be increased by 7 per cent, even though the 7 per cent was much lower than the 12 or 13 per cent which the country in general expected to receive. From what I know of the labour movement in the country, I can say that if its spokesmen and officials had been in the same position as we were in they would never have agreed to relinquish 7 per cent when someone else was receiving 12 per cent. If that 7 per cent is too high now, then, of course, we were wrong in taking it in the first place. It calls into question the whole procedure of arriving at the increases provided by Parliament for members of the Commons and the Senate in the past.

But then in making that kind of error in relation to this labour principle I have been referring to—if one can call it that—the government or powers that be, the caucuses, the people who made the decision, did not go first class. They did not say, "We will take off the 7 per cent and that will be it." They said, "We will take off the 7 per cent on the indemnity, but we will leave the expense allowance increase alone." That caused another furore in the press across the country, and we were damned again. We were damned for the 7 per cent; we are damned for taking off part of the 7 per cent; we will probably be damned even if we take the full 7 per cent off everything, because then the press will say, "That just proves they were getting too much in the first place. They are agreeing that they have been overpaid, so now they are going to cut their increase by this amount."

You know, politics always enters into it. It has to. Your opponents are always against what you are doing; your supporters are sometimes in favour of what you are doing.

I was in Saskatchewan when the newspaper headlines said that the legislature was not increasing its pay by 12 per cent, but, over the period of time it was dealing with the matter, was increasing its pay by 56 per cent. I thought. "Oh, my gosh! What a howl will go up in Saskatchewan. Everybody will be up in arms. The members of Parliament in the Senate and House of Commons asked for 7 per cent and the roof fell in, and even though they are now willing to forego part of it there is still some grief." But the public in Saskatchewan scarcely made little mention of it; there was scarcely a ripple. Then I heard one of those phone-in shows on the radio, and I said to myself, "Now they are really going to be in trouble." They were asking the man on the street in Saskatchewan for his opinion. Well, in Saskatchewan there is a different set of political circumstances. More than half of the people interviewed said, "Well, you know, our MLAs do a pretty good job. The cost of living is going up, and those guys in the federal Parliament have been getting these huge increases. So we think it is okay if our fellows go along." That is exactly what they were saying about a 56 per cent increase in the indemnities of the members of the legislature.

I doubt if my contribution to this discussion has been particularly valuable, honourable senators, but I wanted to say that I think members of Parliament in both houses are concerned about this problem. They are in a difficult position in dealing with something like this. We are now going first class in one direction by foregoing any increase, but we have to decide sooner or later what we are worth in the functions we perform. I think we will then have to decide that we are entitled to a reasonable increase, if everyone else is getting a reasonable increase. I, for one, am quite happy to take the lowest of any of the increases that are around, but I happen to think that a member of the House of Commons or a senator who is doing his or her work is entitled to reasonable remuneration for a job well done. We should not expect any credit for passing this bill unanimously—as we probably shall—because I do not think we will get it. But at some time in the future we are just going to have to decide that we will support what is fair and reasonable by way of a return to ourselves.

I raised a matter in the house a couple of weeks ago on another item of cost to senators, namely, tailoring services. I was not complaining that I had to pay for them. I was happy to pay for them. The newspaper reports of what I said omitted the sentence in which I said that I was glad not to be on the taxpayers' back, and was prepared to pay my own way, which I still am.

Personally, I am not at all concerned about whether we get less pay by a moderate amount, or more pay by a moderate amount. At one time, when my family was small, our circumstances were very difficult. At this stage in life, when I no longer have dependants, my circumstances and level of living are such that I have no financial problems, and about that I am pleased. However, I think that the country should recognize that members of the Senate and the House of Commons are entitled to reasonable pay for a job well done.

[*Translation*]

Hon. Azellus Denis: Honourable senators, let me say just a few words. I think that our sacrifice is more important than one might think, because 7 per cent of $24,000 is about $1,600. I am—speaking only for myself—a young man, but if some honourable senators must retire and receive two-thirds of their pensions, according to that law, they will have to do without $1,100.

I am proud to collaborate and make this sacrifice.

[*English*]

Hon. Chesley W. Carter: Honourable senators—

The Hon. the Speaker: I wish to inform the Senate that if the Honourable Senator Carter speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Forsey: Honourable senators, I wonder if, before Senator Carter closes the debate, I could ask him if he would be kind enough to clear up this matter of the actual amount under clause 2, because it looks to me, as it apparently looked to Senator Hicks and the Leader of the Oppo-

sition, as if it were $200 a month, whereas the announcement we got, I think, was that it was to be $200 a year; so I hope that in his reply Senator Carter will clear that point up for us.

Senator Carter: Honourable senators, I want to thank all honourable senators who have participated in this debate for the contributions they have made.

Yesterday Senator Flynn wondered why I had been selected for this assignment. I should tell him that I was not exactly selected, but there did not seem to be any stampede on the part of honourable senators to sponsor this bill, and since it is something that had to be done, and I have had my fair share of pleasant duties in this chamber, I thought it only fair to even the situation up a bit by taking on something that would not give me quite so much pleasure. The last bill I introduced in the house gave me not merely pleasure but joy, because it had to do with extending benefits to the Hong Kong prisoners. This one is in a very different category, but on thinking it over, my natural inclination to spare honourable senators from unpleasantness whenever I can prompted me to take on this assignment.

Senator Flynn raised a point at the end of his speech which I had hoped he would forget. I did get a little bit ahead of myself yesterday, and by the time I caught up with myself I was too far advanced to retreat, so I had to carry on. The words that Senator Flynn mentioned did not, to my mind, bear that significance which he seemed to assign to them. When I read that statement I thought it applied to the recovery of statutory payments already made, legally, under the law prior to the passage of this bill. I did not think there was anything more than that in it, but if there should be, and if Senator Flynn is not satisfied, then I shall be quite happy, if this bill receives second reading, to move that it be referred to committee.

● (1440)

As to the point raised by Senator Forsey, my understanding is that the amount is $200 per month; it is not $200 per year. I think Senator Flynn corrected that in his speech earlier today.

Honourable senators, this is a bill which affects us personally, as it affects members of the other house personally, in that we are all members of Parliament. It is, in a sense, a delicate matter. Since our colleagues in the other place, our fellow parliamentarians, have passed this bill, I do not think we can do very much more than complete the process and pass it in this house. It is true that the measure will impose a certain amount of hardship on some members of the other place—there is no doubt about that. Senator Argue has pointed out that we are not going to get any public relations gain out of this bill, and Senator Flynn has demonstrated that no other legislature is following our leadership. So far as giving leadership is concerned, even if it is not followed I suppose we can always point to it and say, "Well, we tried, but perhaps we did not try soon enough or in the right way."

There is no doubt, honourable senators, that there are some aspects of the principle of this bill which give rise to doubts. I have doubts particularly about the blurring of the distinction between expense allowances and salaries. I think that is a bad precedent, and one that will bedevil us in the future. We are admitting in this bill that there is really no distinction between expense allowances and salaries and that, as far as members of Parliament are concerned, they can both be counted as one and the same. It is a bad thing and it is something I do not like, but, since our fellow parliamentarians in the other house have already passed this bill, we do not have much choice but to follow suit and pass it here.

[Senator Forsey.]

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

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

Senator Carter: At the next sitting.

Senator Flynn: No. I think we should have some explanation. This can be done on Tuesday next without in any way delaying passage of the bill. Anyway, the provisions are, in fact, already in force.

Senator Langlois: Honourable senators, I have looked at the rules, and it seems that there is no clearly established committee to which a bill such as this should be referred.

Senator Greene: Foreign Affairs!

Senator Langlois: I wonder if we could not achieve the purpose we have in mind by referring this bill to Committee of the Whole, possibly with the minister in attendance, on Tuesday.

Senator Carter moved that the bill be referred to Committee of the Whole at the next sitting of the Senate.

Motion agreed to.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE CONTINUED

The Senate resumed from Wednesday, May 12, the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. John M. Macdonald: Honourable senators, I do not propose to keep you for any length of time this afternoon, but I thought I would like to say a few words on Senator Bonnell's inquiry calling the attention of the Senate to the British North America Act as it pertains to transportation, because we have followed the debate with considerable interest.

Both Senator Bonnell and Senator Phillips restricted their discussion to transportation on Prince Edward Island, and to transportation between the Island and the mainland. Of course, the problem is not confined to Prince Edward Island; it is one which is of vital concern to all the Atlantic provinces. Yet I think those senators were wise to restrict their discussion, as by so doing they were able to focus attention on the transportation problems and the difficulties of the Island in a special and a very definite way, which would not have been possible in a wider debate on transportation in the whole Atlantic region. Both senators dealt with the subject in a very knowledgeable way, and showed the close relationship which exists between transportation and the economic health of Prince Edward Island. They made powerful and informative speeches, and

the historical review of transportation between Prince Edward Island and the mainland given by Senator Bonnell will serve as an authoritative reference work for anyone who wishes to examine it in the future.

Senator Bonnell and Senator Phillips performed a very valuable service in bringing once again to the attention of the government, and to the attention of the public in general, the need for an improved transportation system both on the Island itself and between the Island and the mainland. For their stand they have strong provincial support, because I understand that the Minister of Highways and the Minister of Agriculture of Prince Edward Island have both indicated that there has been a serious deterioration of the Canadian National transportation system on the Island. I believe that on two occasions in the last session of the legislature the Minister of Highways indicated that the ability of the Island railroad to function effectively was being seriously impaired by a lack of effective roadbed maintenance, and lack of adequate rolling stock. The Minister of Agriculture suggested that the Prince Edward Island farmers have been handicapped by the transportation system.

● (1450)

These two honourable senators from Prince Edward Island deserve all the support and encouragement we can give them in their efforts to obtain for the people of that province the advantage of a good transportation system, something which they should have as a result of Prince Edward Island becoming part of the Canadian confederation.

Then, Senator Rowe and Senator Duggan took advantage of the opportunity presented by Senator Bonnell's inquiry to discuss transportation in Newfoundland. Both of these senators have spoken before on the matter, and it is obvious that both have an expert knowledge of the subject. They, too, restricted their discussion to transportation within Newfoundland, and between that province and Nova Scotia. It is on the matter of transportation between the ports of Port aux Basques in Newfoundland and North Sydney in Nova Scotia that I wish to direct a few remarks. I realize, of course, that transportation is a matter of great concern to all the Atlantic region. It is a matter of life and death so far as the economic life of the Atlantic region is concerned. While I do not propose to discuss transportation as it affects the Atlantic region at this time, I do wish to support the position taken by Senator Rowe and Senator Duggan, and to encourage them in their efforts to obtain an improved system in Newfoundland and between Newfoundland and Nova Scotia.

Senator Rowe pointed out that term 32 of the Terms of Union, which are now part of the British North America Act, deals with this matter, and quoted term 32(1), which is as follows:

> Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port aux Basques, which, on completion of a motor highway between Corner Brook and Port aux Basques, will include suitable provision for the carriage of motor vehicles.

Honourable senators will note that the term does not say that while Canada will provide the service the people of Newfoundland will have to pay for it.

I interject here to say that the people of the town of North Sydney, where I live, will always be grateful to the delegates from Newfoundland for insisting upon having this provision written into the Terms of Union. There was a ferry service between those two ports for many years, but the tremendous development of the service since 1949 has made it a major industry of the two as far as employment is concerned. I am sure the same is true of Port aux Basques. Consequently, anything which has an adverse effect on the employment is a matter of grave concern to the people of those two towns.

Senator Rowe pointed out that this ferry service is the lifeline of Newfoundland, and anything which might affect that lifeline is a real danger to that province. In my opinion, he proved this not only during this debate, but in previous ones in which he has participated. However, I must say at this time that I believe he has taken an extreme position with regard to the interpretation of term 32(1). He feels that the term means exactly what it says when it says Canada will maintain a freight and passenger service. He feels it means that this service must be maintained at all times, although he accepts, of course, temporary dislocations of the service on account of events beyond human control such as ice conditions, violent storms and the like.

Personally, I believe we must go a step further. I think we have to add a legal strike to the list of events which would justify an interruption of the service. As Senator Duggan mentioned, we live in a free country where free men can legally exercise their right to withdraw their services. When employees have the legal right to strike, I do not think the wording of term 32(1) should deprive them of that right. Let us be realistic about it. Apart from the principle involved, I know of no way under our system whereby service could be maintained if there should be a legal strike by the crews of the ships, the railway workers, the stevedores, or even the office workers. I think, also, that it should be realized and acknowledged that since 1949 labour relations on that service have been very good. I believe the only serious and prolonged strike was the one to which Senator Rowe has referred at various times. While it is admitted that that strike caused hardship, distress and inconvenience, it must also be admitted, in my opinion, that one strike in 25 years is a pretty good record.

Honourable senators, it is a constant worry that there will be a loss of employment if changes are made in that ferry service, either through mechanization, larger ships, or loss of traffic to other carriers and the like. These things have happened. I should add that it is difficult for people who live in areas in which there are many opportunities for employment to appreciate what the loss of even a few jobs means in an area in which there is no other available employment.

I have mentioned that the ferry service gave good employment to the two ports involved, but that employment has been severely restricted and a good many, too many, jobs have been lost. They have been lost for two reasons, one being the ever-increasing mechanization of the freight handling. Larger ships are being used and fewer men are employed. For example, at one time on that ferry service there were seven ships in operation owned by the Department of Transport. On May 3 of this year only

four of these were still in operation, the others being tied up and perhaps more are tied up by now. However, two large ships, the *Marine Nautica* and and the *Marine Atlantica*, were operating on the service under charter, the charter rate being $7,750 each per day. A third ship, the *Stena Nordica*, has been chartered for 120 days a year for the next five years. I do not know what the charter rate is, but it will not be less than that of her two sister ships. It is difficult for people to understand why the Department of Transport ships are not being used while the chartered vessels are. I realize that there may be many good reasons, or at least some kind of reasons, but I realize also the effect this is having on employment, both with respect to the ships' crews and the dock workers.

We all know that change is inevitable and must be accepted, and certainly many changes have been made in the operation of the ferry service between Port aux Basques and North Sydney. There was the introduction of the large containers, the freight-car transfer by ferry, and the increasing popularity of trailer-trucking as against freight-car haulage. All these have had and are having an adverse effect so far as employment is concerned. Then, with the introduction of the large chartered ships, that adverse effect on employment has been intensified. Let me give you an example: I do not have the tonnage of the freight handled this year to compare with the tonnage handled in the same period last year, but I expect there would not be much difference. Yet the number of stevedores working in the town of North Sydney one year ago was approximately 800, whereas only 214 were so employed last week. We are all familiar with the arguments that costs must be reduced, and there must be more efficiency, but that always seems to bring about a reduction in the work force. Perhaps there is greater efficiency; perhaps costs are lower now than they have been. I do not know. I expect Senator Rowe and Senator Duggan would know whether the people of Newfoundland are now getting better service. They will also know whether transportation costs have been reduced and, if so, whether that reduction has been passed on to the people of Newfoundland in the form of lower prices for the goods they must buy.

Honourable senators, when changes are being made in a service such as this, consideration should be given to the effect of such changes on employment, and to whether the good effects of the changes outweigh the bad. Will the lower cost compensate for the loss of a major source of employment, with the consequent ill effects on the whole region concerned—particularly a region where alternative employment is not available? I consider that in these cases a deliberate judgment must be made and a balance struck, as it were, between the various factors involved. The cost factor should not be the only consideration. A sense of proportion must be kept in mind and a decision made as to whether the advantages outweigh the disadvantages, and unless it can be clearly shown that the changes are beneficial they should not be made. Personally, I do not believe the latest changes made in the ferry service between Newfoundland and Cape Breton have yet proved advantageous to the regions directly concerned.

• (1500)

Honourable senators, I mentioned also the concern felt for present and future employment arising from the competition of other carriers. There can be no objection, of course, if other steamship companies wish to compete with the government-owned service. That is their business. But I do believe that objection can well be taken to the government's providing a subsidy to its competitors. I understand, for example, that Clark's Steamship Limited receives a subsidy from the federal government on the freight it carries from Montreal to St. John's. I cannot quite understand why the government should subsidize a competitor of its own service.

Some further alarm was felt recently when an advertisement appeared from a new company called The Newfoundland and Ontario Steamship Limited, announcing a new direct service from the Great Lakes to St. John's. I am informed that this company does not receive a subsidy and has not applied for one. However, knowing the history of that kind of company, I expect it will not be too long before it does apply. If it does, I hope the government will give a firm refusal, and also a firm refusal to any other company seeking a subsidy in order that it might compete with the government-owned service to Newfoundland.

Honourable senators, in my opinion the speeches of Senator Rowe and Senator Duggan are worthy of much consideration, and I hope that notice of them will be taken by the proper people in the proper places. I must say that I liked Senator Duggan's idea that the Port aux Basques to North Sydney ferry service be considered as part of the trans-Canada highway, as indeed it is in fact, if not in name. The cost of operating the service should not be a major consideration. The main consideration should be that the Newfoundland lifeline be maintained as a service—as the service it was meant to be under the Terms of Union. As I mentioned earlier, there is nothing in term 32 to indicate that the service was to be paid for by the people of Newfoundland, yet over the years they have paid a very substantial part of the cost through the higher prices they pay for everything they must import and use.

All the Atlantic provinces face a major transportation problem. I have not discussed the general problem of transportation as it affects Nova Scotia, but at some future time I hope to do so. I wish to support the positions taken by the senators from Prince Edward Island and Newfoundland, and to encourage them to continue their efforts to obtain that justice to which their provinces are entitled under the terms of the Constitution.

Honourable senators, I know there is an operating deficit on the Port aux Basques to North Sydney ferry service, but I have no time for those who complain about such deficits. Let us face facts. Whatever the cost of maintaining that service, that lifeline, it is a small price to pay for having Newfoundland a part of Canada.

On motion of Senator Petten, for Senator Norrie, debate adjourned.

The Senate adjourned until Tuesday, June 15, at 8 p.m.

THE SENATE

Tuesday, June 15, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

June 15, 1976

Madam,

I have the honour to inform you that the Hon. Jean Beetz, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 15th day of June, at 9.45 p.m. for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant.
Edmond Joly de Lotbinière
Administrative Secretary to the
Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Environment Canada Surveillance Report, dated September 1975, entitled "Characterization of Wastewaters from the Great Canadian Oil Sands Bitumen Extraction and Upgrading Plant". (English text).

Copies of Environment Canada Surveillance Report, dated April 1976, entitled "Atmospheric Asbestos Fibre Concentrations in the Baie Verte Area, Newfoundland". (English text).

Copies of Report of the Anti-Inflation Board to the Governor General in Council reporting its reference to the Administrator of the Anti-Inflation Act of the collective agreement between the International Nickel Company of Canada, Limited, Manitoba Division, and the employees represented by the United Steelworkers of America, Local 6166.

Report of the Department of Public Works for the fiscal year ended March 31, 1975, pursuant to section 34 of the Public Works Act, Chapter P-38, R.S.C., 1970.

Report on the administration of the Canada Pension Plan for the fiscal year ended March 31, 1975, pursuant to section 118, Chapter C-5, R.S.C., 1970.

Report of the Canadian National Railways Securities Trust for the year ended December 31, 1975, pursuant to section 17 of the Canadian National Railways Capital Revision Act, Chapter 311, R.S.C., 1952.

Copies of a Statement by the Prime Minister of Canada to the Conference of Federal and Provincial First Ministers held at Ottawa, June 14 and 15, 1976 entitled "Established Program Financing: A Proposal regarding the Major Shared-cost Programs in the fields of Health and Post-secondary Education".

HABITAT

UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENTS

Senator Perrault: Honourable senators, may I take this opportunity to say how good it is to be back from the Conference on Human Settlements which took place in Vancouver during the past two weeks.

I had the honour to serve as chairman of one of our Canadian committees at the conference. In this regard, it was a particular pleasure for me to be associated with one of our distinguished colleagues, Senator Buckwold, who over many months and at the conference itself made a most significant and useful contribution to the success of Habitat.

It may be of interest to honourable senators if those of us associated with the Habitat Conference were to present a more formal report to the Senate at some later and more appropriate time.

However, let me say that it was an honour and pleasure to be associated with a group of fine Canadians from all political parties, including those with whom we worked from the loyal Opposition, and those who serve the people of this country at the municipal and provincial levels of government. It was a privilege to work with such a representative group of Canadians in efforts to advance what we felt were some useful initiatives not only on behalf of our own nation but on behalf of the people of the world.

I have never felt more proud of being a Canadian, in having this opportunity to work on a non-partisan, non-political basis with men and women from all parts of this country and from all sectors of Canadian life.

Senator Flynn: Honourable senators, I should like to thank the Leader of the Government for his short statement. I was going to ask him to make one had he not risen at this time. We are happy to see him back with us and I congratulate him and Senator Buckwold, as well as all the

other members of Parliament who participated in the conference.

When he reports more fully to the Senate, I, and I am sure other honourable senators, will be interested in knowing whether the press reports on the frustrations suffered by the Canadian delegation, and other delegations of the Western countries, were justified and should be taken seriously.

I had occasion, when in London attending the IPU conference in September of last year, to feel that a certain group of nations was using these conferences for promoting ideas that were not necessarily relevant to the purpose of such conferences, or of meetings like those of the Interparliamentary Union. I should like the Leader of the Government to tell us of his reactions to this climate, and his views on whether it is practical and useful for Canada to continue to participate in such conferences, or whether some effort should be made to change the pattern to bring about, if not absolute relevancy, at least substantial relevancy in the debates which take place on those occasions.

Senator Buckwold: Honourable senators, it is not my purpose to report on the conference. As the distinguished Leader of the Government in the Senate has said, there will be an opportunity to give a more detailed report to honourable senators on what transpired at this very important meeting of the nations of the world.

At the outset, I want to thank Senator Perrault for his kind references to me. I can tell you that I was never as proud of a leader, or a member of a delegation, as I was of Senator Perrault who, with little previous exposure to the whole work of the Habitat Conference—I personally had been involved in it for some years; he became involved only recently—showed, almost immediately, a tremendous grasp of this very complex subject, and was able to assume his responsibilities with great dignity. In so doing, he earned the respect of the entire delegation. I want all honourable senators to know that he performed in an admirable way.

My purpose in rising at this time is to make one general statement while the subject of the Habitat Conference is still newsworthy. I should think it is still in the news arena at this time; two or three days from now, it might not be.

I am asked fairly often, "Was it all worthwile? Was the conference a success? Really, wasn't it a wasteful effort to go through years of preparation and the spending of millions of dollars to end up with a day or two of political harangue at the plenary session of the conference which really did not contribute very much to the conference itself?" Honourable senators, my reaction is that it was worth every bit of the effort put into it and every dollar spent. It is true that there was not the unanimous acceptance of the Declaration of Principles, which would have been desirable. Nevertheless, at least 98 per cent of the principles were agreed to by all nations of the world. It was only a few unworthy amendments to that document that broke down the conference towards the end when it moved into the political arena with subjects which quite rightly should have been discussed before the General Assembly or the Security Council. But when we think of the importance for the future of the issues that were agreed to, of the climate that has now been established for

[Senator Flynn.]

action on the national front and cooperation on the international front in this whole field of human settlements, as to where we will live and how we will live, I would suggest to the house that it was all worthwhile.

I feel that the objectives that have been adopted—I say "adopted" because they were agreed to in the various committees in which they were studied and proposed—will lead to a better life for the great majority of humanity now and in years to come. I look forward, along with the Leader of the Government, to going into more detail as to what transpired at the conference. For the time being, let me say, if only for the press, that the conference was a great success insofar as achieving its basic objectives for an improvement in the attitude and climate for better human settlements in the future.

● (2010)

PENITENTIARIES

ACTION TAKEN TO IMPLEMENT PRINCIPAL RECOMMENDATIONS OF REPORT OF SPECIAL JOINT COMMITTEE—QUESTION

Senator Croll: Honourable senators, I have a question for the Leader of the Government. On April 8 I placed Inquiry No. 1 on the Order Paper. My question is: How soon can I expect an answer, and what has the leader to report at the present time?

Senator Perrault: Honourable senators, I will endeavour to obtain an answer to that inquiry as quickly as possible. Perhaps we can work toward a reply in the latter part of this week, although the question is very detailed.

COPYRIGHT ACT

CROWN COPYRIGHT—MINISTER OF SUPPLY AND SERVICES—QUESTIONS

Senator Forsey: Honourable senators, I have four related questions I should like to put to the Leader of the Government. I gave him notice of them, I am sorry to say, rather late this afternoon; circumstances prevented my doing it sooner. I presume, therefore, he will want to take them as notice.

The questions are:

1. Who is responsible for replacing, in the *Economic Review*, April 1976, the customary, and legal, "Crown copyright reserved," by "Copyright Minister of Supply and Services?"

2. By what authority was this change, which appears to be a plain violation of section 11 of the Copyright Act, made?

3. Has the Minister of Supply and Services been created a corporation sole?

That is s-o-l-e, I may observe in passing.

4. If so, when, and by what instrument?

Senator Perrault: Honourable senators, I appreciate the fact that Senator Forsey has given notice of this question. I am not able to provide an answer at the present time, but I will seek to provide an adequate reply at the earliest possible opportunity.

FOREIGN AFFAIRS

CANADIAN DEFENCE SPENDING—REMARKS BY UNITED STATES AMBASSADOR TO CANADA—QUESTION ANSWERED

Senator Perrault: Honourable senators, I have replies to questions asked at earlier dates, beginning specifically with a question posed by Senator Forsey on Thursday, May 13. The question is to be found on page 2122 of *Debates of the Senate*. It related to a reported allegation that Canada's level of defence spending is a major irritant in current Canada-United States relations. Honourable senators will recall that question. I think it arose out of a report in the *Globe and Mail*.

From the information made available to me it would seem that the comments by the United States ambassador to Canada on this matter in Winnipeg were seriously misinterpreted. I understand that what he actually said was that defence was a promising element of our overall relationship and not an irritant.

I think most of us would agree with this latter interpretation of the situation. It is unfortunate that any other interpretation should be attributed to the remarks of Ambassador Enders, since this is a point on which there does not appear to be any difference of perception.

GRAIN

SUBSIDIES PAID ON SHIPMENTS OF GRAIN TO EASTERN CANADIAN PORTS FOR EXPORT—QUESTION ANSWERED

Senator Perrault: Honourable senators, I refer to a question asked by Senator Smith (Colchester) on May 26. Senator Smith was good enough to state at the time that he did not expect an answer immediately because of the detailed nature of his inquiry, which was:

> In view of the apparent decision of the government to do away with the subsidies paid in respect of shipments of grain to eastern Canadian ports for export, what was the capacity in the calendar year 1975 of those ports to handle grain for export? How much was paid in subsidies, and how much is it expected that this capacity will be utilized after the withdrawal of the subsidies?

Honourable senators, I have here a rather long table indicating the relevant elevator capacity of eastern Canadian ports and the corresponding subsidy payment for grain in 1975. If it is satisfactory to Senator Smith, I would be pleased to ask that this be printed in today's *Debates*—that is, unless he wishes me to read it to the house.

Senator Smith (Colchester): It would be very satisfactory to have it printed in the record.

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

Hon. Senators: Agreed.

CAPACITY/SUBSIDY PAID ON SHIPMENTS OF GRAIN
FOR EXPORT TO EASTERN CANADIAN PORTS
1975

Location	Railway	Capacity Manager	No. of Elev.	Capacity Bushels
QUEBEC				
Montreal	CP-CN*	National Harbours Board No. 1		4,000,000
	CP-CN*	National Harbours Board No. 3		5,000,000
	CP-CN*	National Harbours Board No. 4		5,500,000
	CP-CN*	National Harbours Board No. 5		5,100,000
Quebec	CP-CN*	Bunge of Canada Ltd.		8,000,000
Sorel	CN	Sorel Elevators Ltd.		5,230,000
Trois-Rivières	CP	Three Rivers Elevator Ltd.		5,880,000
			7	38,710,000
NEW BRUNSWICK				
Saint John	CN	Canadian National Railways		500,000
West Saint John	CP	Marathon Realty Co. Ltd. "B"		1,000,000
	CP	Marathon Realty Co. Ltd. "H"		1,576,800
			3	3,076,800
NOVA SCOTIA				
Halifax	CN	National Harbours Board		5,152,500
			1	5,152,500
		TOTAL	11	46,939,300

*also served by N.H.B. railways

1975

SUBSIDY PAID:
(Grain) $8,603,157

Senator Perrault: It can be said as well that the federal government has been holding discussions with the provinces, railways, port commissions and the National Harbours Board on ways and means of moving grain down in unit trains to east coast ports. Initial volumes anticipated would sustain the throughput at current levels. An extension of this principle would have a significant effect on the pattern of grain movements through eastern ports.

ENERGY

OFFSHORE OIL AND GAS RESOURCES IN ATLANTIC PROVINCES—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators will recall that on May 19 Senator Austin asked a question related to the offshore resources constitutional issue. In essence, the question was:

> Is the federal government now considering the necessity of unilaterally, or by agreement if possible, making a reference to the Supreme Court of Canada on the Newfoundland constitutional issue in order to avoid hindering the search for badly needed natural gas and oil resources in Canada?

I am prepared on behalf of the government to make the following statement: On the 19th of May, in response to a question from Senator Greene, I informed the Senate that officials' discussions were under way between the federal government and the governments of the three Maritime provinces of Nova Scotia, New Brunswick and Prince Edward Island. I am pleased to report further that these discussions are continuing and that prospects appear more favourable now than at any time in the past several years for an agreement between the parties on an arrangement respecting administration and management of mineral resources offshore the provinces involved.

In responding to Senator Greene's question, which is linked with the question put by Senator Austin—and honourable senators may wish to refer to the question originally asked on May 19 in order to ascertain the interrelationship—in responding to Senator Greene's question, I further noted that negotiations with the province of Newfoundland on offshore minerals had ceased, and I expressed the view that if this impasse were not soon resolved it might have an effect on the level of exploration expenditures off the Labrador coast.

Senator Austin expressed some disquietude at the possibility that exploration off Labrador might be slowed down or possibly even cease, because of failure to resolve the Newfoundland constitutional issue. He inquired whether the federal government was considering referring this issue to the Supreme Court of Canada.

With respect to the latter question, I am pleased to inform honourable senators that very recently there have been developments that have raised hopes that in the near future the two governments involved will be taking action designed to settle whatever doubts there may be as regards the legal status of mineral resources in areas offshore Newfoundland. I am pleased to bring this information to the house this evening.

As to any possible decrease in the pace of exploration for oil and gas off Labrador, a matter upon which not only Senator Austin but also a number of other honourable senators expressed concern, I am happy to inform the house that it does not appear that there will be any slowing down in the rate of exploration off Labrador during the coming season. As honourable senators are aware, the drilling season off Labrador does not commence until late in the season, very late in June or early in July, as a rule, and companies sometimes cannot make all the final decisions as to their exploration programs until shortly before their drilling ships and semi-submersibles are ready to leave for location. However, prospects now are that there will probably be four units drilling off the Labrador coast during the coming season, two drillships and two semi-submersibles. If these plans materialize, there will be one more unit drilling off Labrador this season than during the previous peak drilling season of 1975. Besides this drilling activity, there are excellent prospects that some 10,000 miles of seismic surveys will be carried out off Labrador during the coming season, as much as or more than during 1975.

● (2020)

Honourable senators may be interested in a resumé of drilling activities off the east coast to date. Up to the present, there have been 115 wells drilled in this region: 59 in the Scotian Shelf area, 40 on the Grand Banks, nine off Labrador, four in the Gulf of St. Lawrence, two off north east Newfoundland, and one in the Bay of Fundy.

As I noted during my remarks on May 19, the most promising discoveries so far have been made off the Labrador coast. Two significant gas discoveries have been confirmed by testing, and another two wells in which hydrocarbons were reported will be further evaluated this year.

By contrast, none of the 42 wells drilled on the Grand Banks and off northeast Newfoundland encountered hydrocarbons of any significance. Of the four wells drilled in the Gulf of St. Lawrence, one was tested but the gas accumulation encountered is believed to be too small to have commercial significance. To our knowledge, no further drilling is planned for these areas during 1976.

On the Scotian Shelf, however, six small hydrocarbon discoveries have been made. About half of these might, with further delineation drilling, prove to be of commercial interest. As I mentioned in my statement on May 19, Petro-Canada is now providing a catalyst for renewed drilling activity on the continental shelf off Nova Scotia. It is expected that one semi-submersible will be drilling on the Scotian Shelf throughout 1976.

Honourable senators, I realize this is a rather overlengthy reply to this question, but I know that there is intense interest, particularly in the Atlantic provinces, in the state of drilling off the east coast, and so I have taken

the liberty of providing as complete and current a summary as possible.

Senator Smith (Colchester): It is much appreciated.

SENATE AND HOUSE OF COMMONS ACT SUPPLEMENTARY RETIREMENT BENEFITS ACT

BILL TO AMEND—CONSIDERATION IN COMMITTEE OF THE WHOLE

Pursuant to an Order of the Day, the Senate was adjourned during pleasure and put into Committee of the Whole on Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder, the Honourable Senator Macnaughton, P.C. in the Chair.

The Chairman: Honourable senators, the Senate is in Committee of the Whole on Bill C-81, intituled: "An Act to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder."

Senator Langlois: Honourable senators, before we proceed with the study of this bill in Committee of the Whole, I would like to remind you that when the suggestion was made last Thursday that this bill be referred to this committee today the hope was expressed that the minister, the Honourable Mr. Chrétien, would be present. We are informed, however, that he is detained in connection with the work of the House of Commons, and we have in his absence asked Mr. H. D. Clark, Director of the Pensions and Insurance Division of the Treasury Board, to make himself available.

I now move that Mr. Clark be invited to take a seat in front of my desk.

Hon. Senators: Agreed.

The Chairman: Shall discussion of the title of the bill be postponed?

Hon. Senators: Agreed.

The Chairman: Honourable senators, we will proceed to consideration of clause 1. Shall clause 1 carry?

Senator Flynn: Mr. Chairman, I think we should have some explanation from the deputy leader or from Mr. Clark, although I think clause 1 is not in his special province.

I see that there is a side-note "1974-75, c.44, s.2" in the bill. I do not think the statutes enacted in the present session have yet been published, so I presume that here we are referring to section 2 of what was Bill C-44, which means that in this same session we are already amending an act that we passed sometime last year. Assuming that what I say is correct, the description here is rather misleading. I have seen the statutes of the present session referred to somewhere else as "Statutes, 1974-75-76", which in itself points to a record, showing that this is the longest session in the history of Parliament. That may explain why we are amending acts passed in the same session.

The second point I want the deputy leader to explain to me is the situation now in comparison with the situation under the act we passed previously. If I remember correctly, the indemnities were to be increased as of January 1 of this year by 7 per cent or, if the cost-of-living index was less than that, then by some other appropriate amount, but I am not too sure about that. What is the consequence for next year and the following years of clause 1 of this bill? I have been able to procure a first reading copy of Bill C-44, but not of the version as passed by the House of Commons and the Senate. It seems to me that this bill, in the form in which it was introduced, dealt with the indemnities only with respect to this 30th Parliament, and that it was contemplated that something else would have to be done for the 31st Parliament. I should like some clarification of these points.

Senator Langlois: Honourable senators, at the outset I should confirm that the assumption made by the Leader of the Opposition with respect to the act this bill amends is quite correct. This is one of the problems which we are faced with in a session which has lasted as long as the present one, now almost two years.

In respect to the latter question I shall limit myself to giving a comparison as between the present indemnities for members of the Senate and the House of Commons and their expenses, and what they would be if the bill were not amended.

The indemnity of members of both the House of Commons and the Senate, as we all know, is $24,000. The expense allowance for senators is $5,300, and for members of the House of Commons the allowances are $13,175, $14,475 and $10,660, depending on the constituency. If the act is not amended as contemplated by this legislation, then the indemnity for senators and members of the House of Commons would be $25,600, and the expense allowance for senators would rise to $5,600 from $5,300. The expense allowances for members of the other place would be increased from $13,275 to $14,200; from $14,475 to $15,400; and from $10,660 to $11,300.

Senator Flynn: I am not too clear about that.

Senator Langlois: As you know, in the other place the allowance varies with different constituencies. Here I am giving the information for the three classes of constituency.

● (2030)

Senator Flynn: We should concern ourselves only with the basic allowance.

Senator Langlois: The basic allowance for the larger constituency would be $14,200 rather than $13,275.

Senator Flynn: Let us speak of the minimum.

Senator Langlois: Shall we leave it at that, or do you want the minimum?

Senator Flynn: The minimum.

Senator Langlois: The minimum is presently $10,660. Without the amendment it would be $11,300. Is that clear enough?

Senator Flynn: Yes, but my question is really with respect to what will happen next year and the following year if we do not pass further amendments to this legislation?

Senator Langlois: If there are no further amendments to the present law, the indemnities and allowances will increase by the percentage of the wage index.

Senator Haig: It is the consumer price index.

Senator Langlois: No, it is not the consumer price index. It is the industrial wage index, and to a maximum of 7 per cent. This is the Industrial Composite.

Senator Flynn: For each year?

Senator Langlois: For each year, yes.

Senator Flynn: Of this Parliament?

Senator Langlois: Forever, until there is another amendment.

Senator Flynn: In other words, there was a change from the original proposal, which made these indemnities applicable only to the 30th Parliament. Now, as a result of the amendment made by this bill, the indemnities would apply to a new Parliament; is that correct?

Senator Langlois: Yes, that is correct, but not as a result of this bill. To add to what I have said with respect to the 7 per cent maximum increase, the Industrial Composite is defined as follows in the act:

> the "Industrial Composite" for an adjustment year is the average weekly wages and salaries of the Industrial Composite in Canada for that year as published by Statistics Canada under the authority of the Statistics Act.

Senator Flynn: Then if the reply is correct—I am speaking only from memory, because I was unable to review the whole situation—I believe that when the first bill, Bill C-44, was presented the idea was that we were providing for a scale of indemnities and expense allowances for the 30th Parliament, and that following that there would be some type of review by a commission and we would not necessarily be governed at all times by the increase in the Industrial Composite. I wonder whether this idea of carrying out a review at the beginning of a new Parliament has been abandoned?

Senator Langlois: I am informed that the statement of the honourable senator is correct. However, this was amended after the bill was introduced in the other place. The increase is now limited forever to a maximum of 7 per cent unless further amendments are introduced.

Senator Flynn: So it is limited forever on the basis of the increase in the Industrial Composite?

Senator Langlois: Yes.

Senator Flynn: So we are still faced with the same problem of having to review the indemnities every now and again.

Senator Argue: Mr. Chairman, may I ask a question? Do I take it that the effect of this amendment is, first of all, that in the present calendar year senators, along with members of the House of Commons, will forego an increase of 7 per cent? I do not understand why these are round figures, but those given in the case of the Senate add up to our foregoing some $1,900. However, this is not just a one-shot affair. We forego something close to $2,000 this year, and it is never recovered under this legislation. Next year, unless some other action is taken, presumably there will be a 7 per cent increase, but that increase will be this year's increase which we are foregoing. So the effect of this legislation, I take it, is that we lose $2,000 this year, to which I do not object—I support the measure—but we lose $2,000 next year, $2,000 the year following, and so on. Therefore, we are putting ourselves in a position in which we set an example this year, and we continue to set an example in each subsequent year.

I do not know if it is a good example but, as I understand it, when trade union negotiators go for a two-year contract, and if they obtain 7 per cent the first year, they probably get 14 per cent the following year, and they have short contracts. Therefore, something that is contributed one year is taken into consideration at a later date. I take it that we are setting an example in perpetuity. We say that we refuse $2,000 this year and another $2,000 the following year, so if there is no change for 10 years our contribution by this action will be $20,000.

When I apprised the Senate of the fact that I was no longer being allowed to pay for having my suits pressed there was great publicity—tremendous publicity. I wonder if parliamentarians will get any publicity for the fact that, as I see it, we make a contribution this year and in every succeeding year until this legislation is changed.

Senator Langlois: The interpretation of the honourable senator is correct, except that we would also be losing in respect of pension. The pension is based on the indemnity, and on account of what we lose this year, which is lost for good, our pension will be affected.

With regard to the publicity, the honourable senator has done a good job on that tonight, and I hope his remarks will be reproduced in the newspapers.

Senator Greene: Mr. Chairman, may I ask the witness this question?

Senator Flynn: No, you may not ask the witness.

Senator Argue: Ask your question through the deputy leader.

Senator Greene: Hard decisions make bad law. I think that is a fairly trite and true criticism of the common law system. Now, accepting that this is a good decision in the present case and it sets an example of martyrdom for all the country to admire and follow, accepting that premise I see a danger in the precedent and I wonder if I could get an answer to this question: Has there been any other occasion on which statutory increments of pay were cut out at a future date for any particular purpose? If not, I can see a very dangerous precedent here in view of the fact that we set pay for judges, officials and various sectors of our Public Service. If those statutory payments to accrue in the future can be cut out at the whim of any Parliament then, in my opinion, we are creating a very dangerous precedent, quite apart from the obvious virtues of our self-sacrifice at this particular time.

Senator Langlois: Honourable senators, in answer to this I am informed that during the depression years there was a 10 per cent cut of Civil Service salaries. Although I am not in a position to confirm this, I believe this also applied to members of Parliament. I will endeavour to

confirm that. This is in all likelihood a precedent so far as members of Parliament are concerned.

Senator Flynn: Oh, yes; there is no doubt about that.

Senator Manning: I should like to ask one question in clarification of a point, but may I first state that I can certainly confirm the statement of the deputy government leader because I happened to be involved in government in Alberta during those depression years. There was a statutory provision, of course, for indemnities, and by a voluntary arrangement worked out with the Public Service a 10 per cent cut was made in both indemnities and salaries of public servants right across the board, and it was preserved during the entire years of the depression period.

● (2040)

I am raising a point of clarification. Getting back to this annual adjustment, which is geared to the Industrial Composite with a ceiling of 7 per cent, did that envisage at the time the original statute came into being a 7 per cent increase of the basic salary, or was it a compounded adjustment? In other words, is it 7 per cent of $24,000 each year, or is it 7 per cent of $24,000 the first year, and then 7 per cent of $25,600 the second year and so on? It makes a big difference if it is compounded; it would double the indemnity in about 13 years.

Senator Langlois: The answer is that it is a compound adjustment.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Clause 2.

Senator Flynn: Honourable senators, the real purpose of having this bill in Committee of the Whole is to obtain information as to the exact meaning and consequences of clause 2. Possibly the Deputy Leader of the Government has a statement to make at this time.

Senator Langlois: I can only repeat the explanation given by the sponsor, Senator Carter, last week, when he said that the Department of Justice had advised that it was within Parliament's right to pass such legislation. That is the only explanation I can give. It is the official answer we have received from the department.

Senator Flynn: Certainly the Deputy Leader of the Government must have something else to say. If I understood correctly the implication of what Senator Carter said—perhaps he should not have said it—it was that under clause 2 of the bill we are refusing to give to pensioners an increase which is part of their contract.

I would like to know who is going to be affected by this because, after all, pensioners have contributed to their pensions, and they are now told "You will not get the amount that you would otherwise have received." This is the point on which I want clarification. In my view, that is the reason why Senator Carter said it would be unfortunate if we had a debate, because we would be doing something which would be going against a contract.

Our indemnity is not a contract, but a pension to which we contribute is a contract, and if we do not give to the pensioner the amount he is supposed to receive, we are breaking that contract. That is the implication of the statement made by Senator Carter, and it is on this point that I want some explanation.

I am not satisfied with the idea that it is within the power of the government. Of course the government or the legislature can be unfair, unjust, and can break a contract; but it should never do that.

Senator Langlois: My information is that this will affect roughly 75 pensioners whose pensions will be in the order of $22,000 a year. I am informed also that there is no precedent for this type of legislation, but that it is, as I have said, within the power of Parliament to pass.

When my honourable friend says that we are violating the terms of a contract, he is apparently losing sight of the fact that we are dealing with legislation. These pensions are established by legislation, and I cannot see how Parliament could be in breach of contract when it amends its own legislaion. That is all it is presently doing.

Senator Hicks: Mr. Chairman, I wish to pursue another aspect of this clause, about which I questioned Senator Carter at the last sitting.

As I read this clause, it limits the increase in the supplementary retirement benefits to $200 per month. But Senator Carter replied most distinctly to me that the limitation was $200 per year. I cannot possibly get that reading from it, and I would like the Leader of the Government to comment once again on this.

Senator Langlois: The amount of $200 a month is the correct amount.

Senator Hicks: It is not an increase of $200 a year, but an increase of $200 per month or $2,400 a year.

Senator Flynn: The Supplementary Retirement Benefits Act provides for a contribution in order to adjust the pensions according to, let us say, the increase in the cost-of-living index or whatever index is used.

Would not the deputy leader agree that it is the kind of contract which provides that if one contributes so much he will receive so much? But by this legislation we are saying, "Despite the fact that you have contributed so much, you will not get what we promised you when we first passed the legislation."

Whether it is legislation or a contract with a company, it is the same thing. Would not the deputy leader agree that Parliament is, in fact, changing the relations between itself and the public servants involved that were established when the act was passed?

Senator Langlois: The Leader of the Opposition, in his reasoning, apparently omits the important fact that this involves members of Parliament. We cannot say there was such a contract, because the pensions were not based on that same basis before the law we are amending was made. My honourable friend assumes that these pension rights have been the same from the inception of the employment period of public servants. That is not the situation. The rates of pension were increased from time to time during the course of employment, so one cannot complain if the rate of his pension for the first years of his employment was lower than it is today.

Senator Grosart: Would the Deputy Leader of the Government explain what was meant by Senator Carter's

statement that this is a proposal to "withdraw an unconditional statutory right"? Those were the words used.

Senator Langlois: I must repeat what I said earlier, that we are dealing not with a contract but with legislation, of which Parliament is the only master. It can change it at any time, and anyone in the employ of the government knows that.

Senator Grosart: With respect, I was not asking whether Parliament had the right. I was asking what was meant by the statement that this is a proposed withdrawal of an "unconditional statutory right". "Unconditional"—therefore, what are the un-conditions? "Statutory"—therefore, what is the statute? "Right"—therefore, what is the nature of the right, the unconditional statutory right, that is being withdrawn?

Senator Langlois: If my honourable friend is asking me to interpret what someone else said in this house, unfortunately I cannot do that. I do not think I have the authority to do so. I do not know what he had in mind when he said that.

Senator Grosart: That would seem to indicate that the Deputy Leader of the Government is not aware of, and cannot explain, what was meant by the statement made by the sponsor of the bill. Surely he has considered the fact that that was the statement made, and that the Senate is entitled to an explanation of that statement which was read at the time from a prepared document.

If the Deputy Leader of the Government is not prepared to answer that question, perhaps he will answer a second one. In the same statement, what was meant by the remark that this would have "staff relations implications"? What are the staff relations implications? We are not talking about Parliament.

● (2050)

Senator Langlois: My honourable friend again is insisting on my interpreting what someone else has said. He can apply whatever interpretation he wishes to what was said by the honourable senator. Speaking for myself, I would read it as Senator Carter read it. I cannot read it otherwise.

I am informed that there are staff implications. Staff will be affected in the same way as members of this house will be affected, as all members of Parliament will be affected, but I am told also that there has been no reaction or protest whatsoever from the personnel involved.

Senator Flynn: They do not understand it any better than you do.

Senator Argue: Perhaps they are not losing any money.

Senator Walker: You are doing very well, Senator Langlois. We have all been in the "hot seat." It is especially difficult when you have to depend on someone sitting in front of you. He is a very good man, but it is very difficult.

Senator Grosart: Is the deputy leader saying that there are staff relations implications?

Senator Langlois: No—or rather, yes, in the same way as we are affected.

Senator Grosart: Well now, which is it? I am not sure whether the answer is yes or no.

[Senator Grosart.]

Senator Langlois: I think my honourable friend is just trying to confuse the issue. I said that the staff will be affected in the same way as we will be affected. I went on to point out that there has been no protest from the staff who will be affected.

Senator Grosart: Perhaps I should say that I was not asking whether there had been a protest.

Senator Langlois: Don't twist my words.

Senator Grosart: I was not twisting your words. I was merely asking you to make it quite clear what your answer was. I take it that there are staff relations implications.

Senator Langlois: Of course.

Senator Grosart: Would you be good enough to tell us what staff this involves? We are dealing with an amendment to a statute which, we are told, will have staff implications. What are these staff implications? The staff is entitled to know, and I suggest to the Deputy Leader of the Government that the Senate is entitled to know, and certainly the Senate is entitled to raise the question and have it answered.

Senator Langlois: I am informed that the staff implications of this bill were fully explained to representatives of the staff associations and there were no protests made. As to the various groups which will be affected, I have answered that, in a very general way, by saying that we are dealing with about 75 persons who will be in receipt of pensions in the neighbourhood of $20,000 and $22,000 per year.

Senator Grosart: I take it the Deputy Leader of the Government is saying that the staff relations implications referred to by the sponsor of the bill will affect only about 75 public servants. Is that correct?

Senator Langlois: That is correct.

Senator Flynn: I would suggest that this is the first time that legislation of this type has been proposed to Parliament, changing a contract respecting pensions by decreasing the amount payable under the conditions originally set for payment.

Senator Langlois: Except for what took place during the depression years, of course. During the depression years there was a reduction of 10 per cent.

Senator Grosart: Not in pensions.

Senator Langlois: In salaries and, consequently, in pensions.

Senator Grosart: No.

Senator Flynn: Let us forget about those who come under the ceiling of $2,400. I think Senator Denis put a question the other day with regard to pensions of members of Parliament, including honourable senators.

Since the indemnities are not going to increase this year, the pension payable to a member who retires, either by reason of age or health, will not increase, as otherwise would have been the case, as I understand it. I further understand that pensions presently being paid will not increase, and some of those pensions are not very high. Does the Deputy Leader of the Government consider that to be fair?

Senator Langlois: If my honourable friend is referring to former members of Parliament who are already in receipt of pensions, those individuals will not be affected by this bill.

Senator Flynn: But those who might retire this year will lose in the way of pensions?

Senator Langlois: Of course. That is set out in clause 1.

Senator Flynn: Do you consider that to be fair?

The Chairman: Clause 2. Shall clause 2 carry?

Senator Flynn: Is that a reply to my question, Mr. Chairman?

The Chairman: It is not for me to say, but the matter has been discussed for some time. Shall clause 2 carry?

Hon. Senators: Carried.

Senator Flynn: On division.

The Chairman: Clause 3. Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall the title of the bill carry?

Hon. Senators: Carried.

The Chairman: Honourable senators, shall I report the bill without amendment?

Hon. Senators: Agreed.

Senator Flynn: On division.

The Hon. the Speaker: The sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Senator Macnaughton: Madam Speaker, the Committee of the Whole, to which was referred Bill C-81, to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder, has considered the said bill and has the honour to report the same without amendment.

THIRD READING

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

Senator Langlois: With leave of the Senate, now.

The Hon. the Speaker: Honourable senators have heard the motion. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: It is moved by the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, P.C., that this bill be now read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Flynn: Without debate and without publicity.

Motion agreed to and bill read third time and passed.

The Senate adjourned during pleasure.

At 9.45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Jean Beetz, Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy of His Excellency the Governor General was pleased to give Royal Assent to the following bills:

An Act to amend the Senate and House of Commons Act and the Supplementary Retirement Benefits Act with respect to the escalation of certain payments thereunder.

An Act to amend the Aeronautics Act.

An Act to amend an Act to repeal the Proprietary or Patent Medicine Act and to amend the Trade Marks Act.

An Act respecting United Grain Growers Limited.

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, June 16, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of Telesat Canada for the year ended December 31, 1975, including its accounts and financial statements certified by the Auditors, pursuant to section 37 of the Telesat Canada Act, Chapter T-4, R.S.C., 1970.

Report of the Textile and Clothing Board, dated May 26, 1976, on an inquiry respecting leather outerwear.

Copies of Order in Council P.C. 1976-1284, dated June 1, 1976, amending Part I of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO PUBLISH AND DISTRIBUTE ITS REPORT ON THE ESTIMATES OF THE MANPOWER DIVISION OF THE DEPARTMENT OF MANPOWER AND IMMIGRATION

Senator Everett, Chairman of the Standing Senate Committee on National Finance, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the Standing Senate Committee on National Finance be authorized to publish and distribute its report on the estimates of the Manpower Division of the Department of Manpower and Immigration for the fiscal year ended the 31st March, 1975, as soon as it becomes available, even though the Senate may not then be sitting.

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

Hon. Senators: Agreed.

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

Senator Flynn: I am wondering if the sponsor would care to put some explanation on the record.

Senator Everett: Honourable senators, the report of the committee on Canada Manpower, which it has prepared following its examination of the estimates, was approved yesterday by committee and is now ready for translation and printing. I am informed that translation will take upwards of a month, and then the printing some time beyond that. Therefore, it is unlikely that the report will be ready for publication before the Senate adjourns.

Of course, I give the undertaking that if the report is ready prior to adjournment it will be tabled in the Senate. The adoption of this motion will facilitate the publication of the report in the event we cannot get it out before the Senate adjourns.

Senator Flynn: I was wondering whether the honourable senator had any inside information as to when the Senate is going to adjourn.

An Hon. Senator: It is up to you.

Senator Flynn: I do not consider it is up to us. Can he give us any assurance that the Senate will adjourn in one month's time?

An Hon. Senator: Ask Stanley Knowles.

Motion agreed to.

FISHERIES

EXTENSION OF COASTAL JURISDICTION—QUESTION

Senator Molson: Honourable senators, if I may, I would ask two questions of the Leader of the Government.

First, has the government any assurance that in proclaiming the 200-mile coastal jurisdiction the provisions of the ICNAF Agreement covering fishing for salmon on the high seas will be respected by the signatory nations?

I might say for general information that ICNAF is the International Commission for Northwest Atlantic Fisheries.

● (1410)

Senator Flynn: Thank you.

Senator Molson: You are welcome.

Senator Argue: You knew the meaning of that acronym?

Senator Perrault: Because of its technical nature, I will take the question as notice.

RIGHTS OF MICMAC INDIANS OF CROSS POINT RESERVE TO FISH ATLANTIC SALMON—QUESTION

Senator Molson: Honourable senators, I should like to ask the Leader of the Government whether any consultations have taken place with the MicMac Indians of Cross Point Reserve to ensure that they can freely fish salmon for need, but that netting on a large scale for sale on the market is constrained? I might say that I realize the leader was spawned on the west coast and, therefore, I emphasize that I am speaking about Atlantic salmon.

Senator Perrault: Honourable senators, both Atlantic and Pacific salmon have a good deal of merit. This question is also of a technical nature, and I shall take it as notice as well.

I will certainly undertake to provide an early reply to your questions, Senator Molson.

ENERGY

CONSERVATION OF FUEL—QUESTION

Senator Argue: Honourable senators, I should like to direct a question to the Leader of the Government on a small matter but one which might be of some significance. Last night when the Deputy of His Excellency the Governor General was performing his duties—I happened to be outside the chamber before the Royal Assent ceremony began—I noticed that the motor of the car awaiting him was running. I inquired why the motor should be kept running during that time. No one seemed to know, but this morning I was informed by one of the constables that it is the practice to keep the motor running in case it should not start after the ceremony was over, and also to keep up the air conditioning in the car.

Senator Flynn: Well, that is reasonable.

Senator Argue: At this time, when the country is endeavouring to conserve energy and when the policy of the government is to conserve energy, the mood should be to conserve energy whenever and wherever it is possible to do so. The amount of fuel used up in that hour or hour and a half might well be enough to take an ambulance to the hospital. It occurs to me to ask whether government policy is such that the motors of these Cadillac cars might be shut off while the vehicles are awaiting the dignitaries who are performing their necessary functions.

Senator Perrault: As a general practice the government has endeavoured to conserve as much energy as possible, in the broad sense of the word—that is, the use of electricity and various types of fuel—but so far as this specific matter is concerned I have no direct knowledge.

Senator Flynn: Does the government leader know whether the new tax of $100 has been paid on that air conditioning system?

Senator Argue: I wonder if the government leader might make some inquiries to see whether the policy of the government is to conserve energy in the use of its automobiles and all automobiles within its control.

THE SENATE

TAILORING SERVICES—FURTHER QUESTION

Senator Choquette: Honourable senators, I should like to ask the leader what was the result of the inquiry regarding the pressing matter which was raised last week by Senator Argue about the tailor, and the fact that things were going to be ironed out. I was surprised at the press coverage that matter received. I am a great punster myself, but there were very few people in the gallery on that day to appreciate the puns made by the Leader of the Government, yet they received front page publicity. I think we should follow that up. I am wondering as to the result of the inquiry which was to be carried on.

Senator Flynn: There is no pressing need any more.

Senator Perrault: We are pressing on with our research, honourable senators. As yet we do not have a final report from the tailor. However, I do not think there is a total prohibition on the services which are paid for by members of both chambers.

Senator Argue: Hear, hear.

Senator Perrault: There may have been a temporary overload of work involved. Beyond that I have nothing further to report. It should be made clear to the media, however, that this is a paid-for service. It is not a free service.

Senator Argue: I thank the honourable leader for his excellent report. I was certainly not looking for any free-load. I am always happy to pay for any services performed. I thought the Treasury should have the benefit of my money by maintaining such a service.

Senator Choquette: I do not want to prolong this controversy, but I should like to mention that someone remarked to me that he does not remember seeing Senator Argue with a pressed suit.

Senator Perrault: Obviously, in the view of your friend, there has been no undue exploitation of the service by Senator Argue.

Senator Argue: Is this an undercover inquiry?

Senator Perrault: No. They do not take blankets, Senator Argue.

Senator Forsey: As a supplementary, might I ask the Leader of the Government whether he could arrange some kind of trade-off between the energy used in running the Deputy Governor General's car and the energy used for pressing Senator Argue's suits?

Senator Perrault: All constructive ideas will be gratefully received.

NATIONAL MUSEUMS

STORAGE OF CANADIANA—QUESTION

Senator Riley: Honourable senators, I would like to direct a question to the Leader of the Government, and ask him whether it is the intention of the government to do anything to protect the priceless items of Canadiana that are stored in a warehouse on Laperrière Avenue. That warehouse has no sprinkler system, and indeed no protection whatsoever. This is only a tinderbox warehouse. I believe these items are under the aegis of the new system of national museums, and are specifically associated with the National Museum of Man.

Senator Perrault: Honourable senators, I have no direct knowledge of that situation. However, if Senator Riley has some information available to him I would be glad to assist him in communicating it to the proper authorities. If the situation outlined by the honourable senator exists, then it is a serious one, indeed.

CANADIAN LABOUR CONGRESS

SALARY INCREASES FOR OFFICERS—QUESTION ANSWERED

Senator Perrault: Honourable senators, may I take this opportunity to reply to a question asked by Senator Phillips on May 26, concerning the President and Vice-President of the Canadian Labour Congress. He alleged that these two gentlemen had voted themselves a $10,000 per annum raise. This question was:

Is it the intention of the government to refer that 40 per cent pay increase to the Anti-Inflation Board?

As honourable senators are undoubtedly aware, the Canadian Labour Congress is not a business corporation employing 500 or more employees. In addition, it is considered to be a non-profit organization. For both these reasons the CLC is not subject to the anti-inflation guidelines. Furthermore, there has been no voluntary referral by the CLC of this increase to the Anti-Inflation Board. In these circumstances there will be no adjudication by the Anti-Inflation Board with respect to the alleged increases in salary for these two executive officers of the CLC.

ENERGY

GOVERNMENT POLICY RE CANADIAN OWNERSHIP OF COMPANIES DEVELOPING OIL AND GAS ON CROWN LANDS—QUESTION ANSWERED

Senator Perrault: A question was asked by Senator Manning on May 26. He said in part:

> —a short time ago an honourable minister in the other place indicated it was the government's intention that companies developing oil and gas on crown lands should be at least 25 per cent owned by Canadians, and that the requirement of Canadian ownership would probably be increased to 50 per cent at a later date.

The question he asked was:

> First, is this fixed government policy as at this date; and secondly, if it is, has a time frame been decided upon within which the Canadian ownership requirement will be increased to 50 per cent?

The Prime Minister, before the 1974 election, had referred to the government's long-term policy goal of increasing the Canadian presence in our resource industries, and eventually to reach, or exceed, 50 per cent ownership. The 25 per cent requirement incorporated in the new land regulations seems now to be a feasible target. While Canadian ownership in excess of 25 per cent would be, of course, a welcome development, and would be promoted by the government, there are no legislative proposals contemplated at the present time which would increase Canadian ownership requirements beyond the above-mentioned 25 per cent level.

● (1420)

DEVELOPMENT OF TIDAL POWER IN BAY OF FUNDY—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Honourable senators, the final question for which I have an answer today is one asked on May 19 by Senator Riley regarding tidal power in the Bay of Fundy. The answer as given to me is rather lengthy since it is made up of a short technical report entitled "Tidal Power Studies in the Bay of Fundy," a press release and a report which is of such length that it would be very difficult to incorporate it in the records of the Senate. I propose to provide this material directly to Senator Riley for his perusal, and then after he has reviewed it perhaps there will be other specific questions arising out of it.

By way of summary I can say that the report of the Atlantic Tidal Power Programming Board dated October 31, 1969 described the results of extensive studies undertaken jointly by the federal government and the Governments of Nova Scotia and New Brunswick. This work was initiated and completed primarily in the years 1968 and 1969. The board examined tidal power development in approximately 20 locations ranging from St. Mary's Bay to Chignecto Bay and the Minas Basin. From this initial selection five sites were examined in detail, and three sites were selected for further investigation as being the most likely to support economic development.

The conclusions and recommendations of the board, which are to be found in the report which I propose to make available to Senator Riley, indicate that "economic development of Tidal power in Bay of Fundy is not feasible under prevailing conditions," although conditions have changed considerably with respect to energy, prices and costs between 1968-69 and the present time.

Reference is also made in this report to previous investigations, including those undertaken by the United States, and jointly by the United States and Canada, in the Passamaquoddy and Cobscook Bay areas. These studies concluded that:

> The Tidal project . . . will not permit power to be produced at a price which is competitive with the price of power from alternative available resources.

Since the rise and fall of the tides at Passamaquoddy is much lower than at locations in the Bay of Fundy, it can be expected that Tidal developments within the Bay of Fundy will be relatively more attractive than those in the Passamaquoddy area. For this reason an earlier study that I have made reference to gave consideration only to the Canadian developments within the Bay of Fundy.

A recommendation for re-examination of Tidal power development was contained in the report of the Bay of Fundy Tidal Power Review Board dated September 1974. A copy of this report is also going to be made available to the honourable senator, and it will be seen to recommend an investigation program as a review, updating an extension of the Atlantic Tidal Power Programming Board study.

The work recommended by the review committee is now under way and contracts have been placed for the initial phase of the work as described in the press release. If honourable senators wish to have a copy of this release, I shall be glad to have copies made.

The reply prepared earlier was in response to the question of Senator Smith (Colchester), which appeared to be concerned with the present status of these studies. The documentation is quite lengthy and with the agreement of the chamber I shall make this available in the first instance to the honourable senator who made the inquiry.

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

Hon. Senators: Agreed.

Senator Riley: Honourable senators, as a supplementary question, I should like to ask the Leader of the Government if incorporated in that report there is a report from the United States Corps of Engineers on the Passamaquoddy-Cobscook Bay area?

Senator Perrault: There are references to United States studies, but the entire United States report does not appear to be included in these documents. If after examination of

the report the honourable senator would like to have it tabled, I am sure other honourable senators and certainly the government will be cooperative in that regard.

GRAIN

SUBSIDIES PAID ON SHIPMENT OF GRAIN TO EASTERN CANADIAN PORTS FOR EXPORT—SUPPLEMENTARY QUESTIONS

Senator Smith (Colchester): Honourable senators, I wonder if I might ask the Leader of the Government a question or two arising out of the very detailed answer he was kind enough to provide last evening to a question I had asked earlier. If the honourable leader wishes to follow the questions by referring to the *Debates of the Senate*, of yesterday, his answer appears at pages 2201 and 2202.

Detailed figures are given relating to all the elevators in Quebec, New Brunswick and Nova Scotia and break down the capacity of each elevator. The total subsidy paid, as indicated at the bottom of page 2201, is $8,603,157.

My first question is as to whether it would be possible in due course—I realize that the leader would not have the answer with him—to relate that to each of the provinces given in the answer?

The Leader of the Government said, as reported at page 2202, that certain discussions have been going on with reference to ways and means of moving grain down in unit trains to east coast ports. My second question is: Is it expected that the movement of grain in unit trains will be achieved soon?

In the next sentence the leader said:

> Initial volumes anticipated would sustain the throughput at current levels.

As far as I can tell from examining the detail, no indication is given of the current levels, unless it is meant that the capacity in the year with reference to which I inquired was fully utilized. So my third question is: What was that throughput which will be sustained at the current levels?

Senator Perrault: I shall take those questions as notice, honourable senators, and attempt to obtain an early reply for Senator Smith.

Senator Smith (Colchester): Thank you very much.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—DEBATE CONTINUED

The Senate resumed from Thursday, June 10, the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. Margaret Norrie: Honourable senators, I wish to bring to the attention of the Senate the importance of transportation in Canada as emphasized by the terms of the British North America Act, 1867 as compared to its importance today, with special emphasis on the situation in the province of Nova Scotia and the Atlantic area. Senator Bonnell has ably presented his views and sharply criticized federal governments through all the period since Confederation for their harsh and often unfair handling of railroad and ferry services to and from Prince Edward Island. This can be verified by reference to *Hansard* of April 8, 1976, page 2049.

Transportation in the Atlantic provinces is so interlinked by the various types commonly known to us all that it is a very complex problem. Of course, soon after 1867, the vital connecting link in Canada was the Intercolonial Railway and the several ferries to and from Prince Edward Island and Newfoundland. The great importance of transportation to all the Atlantic region was recognized by each of the provinces in the discussions that led up to Confederation, and the terms of union which officially brought the provinces into union one after another. Transportation today, as at the time of Confederation, is the lifeline enabling the various regions in Canada to participate with some reasonable degree of equality in the economic growth and development of the nation.

● (1430)

In Atlantic Canada transportation had at the time of Confederation, and has today, a role to play in enabling the manufacturing firms and processors of the region to reach the small and scattered population of the region at reasonable transportation costs and, just as important, to reach markets outside the region by efficient, reliable carriers. The federal government has always assisted the Atlantic areas by subsidies, thereby trying to equalize the heavier burdens of paying higher transportation costs due to a longer haul than in other parts of Canada. These distant markets must be accessible at competitive costs for Atlantic manufacturers if industries in the region are to achieve the necessary economies of scale. The future of the Atlantic provinces still revolves around a transportation policy where imports and exports to and from local and foreign markets can be handled quickly and efficiently.

At the present time we seem to have a new era of trade springing up in the Atlantic area if we act wisely and quickly to make adequate facilities available. A new name is frequently being used for the ports of Halifax, Nova Scotia and Saint John, New Brunswick, namely, "Gateway to Eastern North America," and even, "Gateway to North America."

The reasons why these ports are so outstanding are, first, they are the most easterly commercial ports on mainland North America and the closest to Europe, not only in distance but in time; second, problems of congestion, ice, limited draft waterways, and political uncertainties are plaguing transportation developments in other parts of the continent; third, the St. Lawrence Seaway, because of climatic and geographic conditions, is beginning to lose its appeal to sophisticated shippers interested in moving goods to markets as quickly as possible; fourth, the port of New York, congested and not served at harbourside by railways, cannot offer the advantages of Halifax and Saint John; and fifth, major airports across North America are shackled by encroaching residential and industrial development, with consequent political problems, while Halifax International Airport offers the potential for virtually unlimited growth.

New York is an extra day away for European shippers, and the port is not blessed with the deep water and uncongested harbour and railway that Halifax possesses. Containers shipped to New York for mid-west destinations must be trucked from dockside and then loaded on rail cars

for shipment, usually in a "piggy-back" fashion. Despite attempts, at substantial cost, to lengthen the St. Lawrence Seaway season, the river network remains closed for the winter. Other natural impediments, such as river depths and currents, further act against the St. Lawrence.

In the air, major terminals, such as New York and Toronto, are heavily congested. Conditions have become so bad at Toronto's Malton Airport that a ban has been placed on additional foreign airlines using the airport until at least 1980. The minister, the Honourable Otto Lang, said this month that congestion will rapidly become worse if restrictions are not imposed.

The Halifax container pier is the country's busiest, handling one-third of all Canadian traffic four years after its opening. The port is also recognized for its grain handling ability, with a potential for loading 72,000 bushels an hour and unloading 36,000 bushels an hour.

A sophisticated Air Canada air cargo business, SeaWings, has begun operations at Halifax International Airport for air shipment of high priority goods, brought to Halifax via container ships, to about a dozen points including Los Angeles. Operational at Halifax since September, the service has accommodated just under one million tons of cargo, with the potential for multifold increase, using airports at Halifax and Saint John.

Vitally urgent to the well-being of the whole Atlantic area is the expansion of the container port of Halifax. Rail freight rates cannot be increased and highways must be strengthened to bear the burden of heavy trucking to load our cars and transport our goods. The trucking industry in Atlantic Canada is unhappy. They feel the time is long past when they should be treated more fairly and gain the respect of the country for the huge task they are performing.

According to *Atlantic Transport Review*, the industry is now recognized as being the largest single employer in Canada, and it probably pays the highest total amount of taxes of any other industry. Despite its growth in size and importance to the whole economy, the trucking industry stresses the need for uniformity in many areas. One need is for uniform rules on vehicle weights, for uniformity in load weights. All four Atlantic provinces allow different load weights at the present time. I am sure there are more problems that must be "ironed out." The trucking industry is a vital part of our economy, and we should see that it gets a fair deal and understanding.

In the report of Transport Canada, passenger rail service between Montreal and Halifax, despite being classified as uneconomical, was ordered to continue at a substantial loss due to the following rationale:

> Given the actual losses incurred and the demands and traffic patterns, the Committee is of the opinion that it is possible through imaginative improvements to develop a Maritimes passenger train system which will satisfy the needs of the travelling public and, at the same time, justify whatever cost there may be to the federal treasury.

There are many problems facing the economy of the Atlantic area, but if we can clarify and promote some of the transportation issues which are now being discussed, I am confident that we can accomplish great things. I hear

[Senator Norrie.]

remarks from other parts of Canada about the burden of equalization payments to the Maritimes, and it is not pleasant for us Maritimers to hear them.

Honourable senators, with hard work and cooperation in dealing with day-to-day issues, I hope that the loyalty between the Altantic provinces and the rest of Canada will remain firm and true. Let us continue what the Fathers of Confederation began, and, as John Ruskin said:

> —when we build, let us think that we build for ever. Let it not be for present delight, not for present use alone; let it be such work as our descendants will thank us for, and let us think, as we lay stone on stone, that a time is to come when those stones will be held sacred.

On motion of Senator Forsey, debate adjourned.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Carter, seconded by the Honourable Senator Croll, for the adoption of the Report of the Standing Senate Committe on National Finance on the estimates laid before Parliament for the fiscal year ending the 31st March, 1977.—(*Honourable Senator Langlois*).

Senator Langlois: Honourable senators, I wish to yield to Senator Carter.

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

Hon. Senators: Agreed.

Hon. Chesley W. Carter: Honourable senators, I should like to begin by expressing my thanks to Senator Grosart and Senator Molson for their interesting analysis of the committee's report, and their valuable contributions to the debate. Both senators urged the government to restrict the increases in expenditures to increases in the gross national product. I am very happy to say that the President of the Treasury Board has assured the committee—this has also been confirmed by the Prime Minister himself—that this is the goal the government is trying to achieve.

● (1440)

In my earlier address I sought to make two points, first, that the committee was reporting on the main estimates only; and secondly, that for the first time the main estimates included expenditures for old age security and guaranteed income supplement payments. Both Senator Grosart and Senator Molson called attention to the increases in expenditures for the fiscal years ending March 31, 1974, March 31, 1975, March 31, 1976, and March 31, 1977, which were 17.3 per cent, 18.9 per cent, 26.5 per cent and 19.3 per cent respectively.

Since the estimates examined by the committee contained, for the first time, expenditures for old age security and guaranteed income supplement payments, I thought it would be useful, and perhaps make it easier to compare expenditures in previous years, if we compiled a table going back over the years and showing what the total

expenditures were including OAS and GIS payments. I would like to put this table on the record at this time. It goes back to 1969.

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

Hon. Senators: Agreed.

[*The table follows:*]

BUDGETARY ESTIMATES
(including OAS and GIS)

(millions of dollars)

Fiscal Year Ending	Main Estimates	% Increase Over Previous Year	Total Estimates for Year	% Increase Over Previous Year
March 31/69	$12,212	—	$12,364	—
March 31/70	$13,588	11.3	$13,871	12.1
March 31/71	$14,817	9.0	$15,378	10.9
March 31/72	$16,557	11.1	$17,400	13.1
March 31/73	$18,273	10.4	$19,072	9.6
March 31/74	$21,427	17.3	$23,508	23.4
March 31/75	$25,467	18.9	$29,974	27.5
March 31/76	$32,210	26.5	$34,763	16.0
March 31/77	$38,417	19.3	—	—

I now come to the years referred to by Senator Grosart and Senator Molson. For the year ending March 31, 1974 the main estimates were $21,427 million, an increase of 17.3 per cent over the previous year, and the total estimates for the year were $23,508 million, an increase of 23.4 per cent over the previous year.

For the year ending March 31, 1975 the main estimates were $25,467 million, an increase of 18.9 per cent over the previous year, while the total estimates were $29,974 million, an increase of 27.5 per cent.

For the year ending March 31, 1976 the main estimates were $32,210 million, an increase of 26.5 per cent over the previous year, while the total estimates were $34,763 million, an increase of 16 per cent. For the current fiscal year to date the main estimates are only $38,417 million, an increase of 19.3 per cent. If you compare the total federal expenditures of the last fiscal year with those of the previous year, you will see that there has been, in the percentage increase, a decrease from 27.5 per cent in 1974-75 to 16 per cent in 1975-76, which is a considerable decrease. I am sure honourable senators realize that it is quite easy for the government to turn on the tap with respect to expenditures but it is very difficult to turn the tap off suddenly and completely without disrupting the national economy as a whole and causing severe hardships to the weaker parts of our economy, such as the Maritime provinces.

The real comparison which shows the government's effort in cutting expenditures is contained in the figures showing a decrease from 27.5 per cent in 1974-75 down to 16 per cent in 1975-76.

The President of the Treasury Board has informed us that he is aiming at reducing it even further next year, to 14 per cent, and perhaps further still. This is still considerably above the rate of inflation, and nobody will disagree with any honourable senator who urges even further efforts along this line.

In the course of his address, Senator Grosart made a statement which caught me by surprise. I was very surprised to hear him say, as recorded on page 2188 of the *Debates of the Senate* of June 9, 1976, as follows:

> The fact is that in the last fiscal year federal government expenditures increased by 16 per cent, and those of all provincial governments increased by only 11 per cent—

I found it very difficult to understand how the provincial governments could cut the increase in their expenditures so drastically from 20 per cent in the previous year to 11 per cent in the fiscal year ending March 31, 1976. I asked the Treasury Board if they could provide me with figures to account for this drastic decrease. They, frankly, were unable to do it. The figures they gave me are as follows: For the fiscal year 1973-74 the estimated total expenditures of all provincial governments were $21.4 billion, and for the year 1974-75 the estimated total expenditures were $25.8 billion, which was an increase of 20.7 per cent over the previous year. For the year 1975-76 the total estimated expenditures were $32.7 billion, an increase of 26 per cent. According to the figures I received from the Treasury Board, therefore, instead of reducing the increase in their total expenditures from 20 per cent to 11 per cent, the provincial governments actually increased it from 20.7 per cent to 26 per cent.

● (1450)

I realize that when we come to make comparisons about rates of increase in government expenditures we come up against a problem inherent in transfer payments. Senator Grosart made the point that all of the money comes out of the same taxpayer's pocket, and that it does not matter too much to the taxpayer who spends it. But when we come to make comparisons of this nature we do come up against the problem of who spends what. If the federal government transfers money to the provincial governments, that is charged up as a federal expenditure, but the actual spending of the money is done by the provincial governments. It

is therefore difficult to have two different bodies spending the same money. Once one body has spent it, it certainly seems to be disposed of. But that is the problem we come up against, and it does cause considerable difficulty in getting accurate comparisons of increases in expenditures by the provincial governments with those of federal government expenditures.

I should like to conclude by joining with Senator Grosart in paying tribute to the President of the Treausry Board, the Honourable Jean Chrétien, for his full cooperation with our committee, for his complete frankness in answering our questions, his willingness to accept suggestions from the committee and for his efforts generally. I am sure all honourable senators will join with me in expressing those sentiments.

Motion agreed to and report adopted.

SCIENCE POLICY

NOTICE OF COMMITTEE MEETING

Senator Lamontagne: Before the Senate adjourns, may I suggest to the members of the Special Senate Committee on Science Policy that, although the committee would normally meet at 3.30 p.m., we might as well meet as soon as the Senate adjourns.

Senator Choquette: Does that committee still exist?

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, June 17, 1976

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

Prayers.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today, it do stand adjourned until Monday next, June 21, at 8 o'clock in the evening.

Honourable senators, contrary to what I had anticipated, it will be necessary for the Senate to meet on Monday evening next because we shall not be sitting on Thursday, June 24, St. Jean Baptiste Day, which is a parliamentary holiday.

Although there is no legislation presently on the Order Paper, we know there are two important bills, Bills C-20 and C-58, in committee. It is expected that Bill C-68, to amend the Medicare Act, will reach us from the Commons by Monday. In addition, there will be consideration of the report of the Standing Senate Committee on National Finance on supplementary estimates (A) for the present fiscal year, which will be presented today. The supply bill covering the balance of the main estimates and supplementary estimates (A) will probably pass the Commons on Tuesday, and we will have it on Wednesday next.

On Tuesday, a meeting of the Joint Committee on Regulations and other Statutory Instruments has been called for 9.30 a.m. The Standing Senate Committee on Banking, Trade and Commerce will meet at the same hour on Tuesday on Bill C-58. In the afternoon at 3 o'clock there will be a meeting of the Standing Senate Committee on Foreign Affairs on Bill C-20, respecting citizenship. The Standing Senate Committee on Legal and Constitutional Affairs will also meet on Tuesday afternoon; the time has not as yet been set, but very likely it will be at 2 p.m.

On Wednesday, the Standing Senate Committee on Banking, Trade and Commerce has scheduled a meeting for 9.30 a.m. on Bill C-58. The Standing Senate Committee on Health, Welfare and Science will meet at 3.30 p.m. to consider the feasibility of the appointment of a special committee on crime and violence in Canada, and the Standing Senate Committee on Agriculture will also meet at 3.30 p.m. for further consideration of its report on Kent County, New Brunswick.

Senator Beaubien: May I ask the Deputy Leader if there is any chance that the Senate will sit on Tuesday night?

Senator Langlois: Yes, the Senate will be sitting on Tuesday night.

Senator McIlraith: I would draw the attention of the deputy leader to the fact that there are other committees sitting next week as well. The Joint Committee on the National Capital Commission will meet, but I do not have before me the date or the hour. The Advisory Commission on Parliamentary Accommodation is also meeting on Tuesday morning at ten o'clock for what may well be the whole day.

Senator Langlois: That may be so, but unfortunately I can give only the list of committee meetings as reported to me.

Senator Choquette: May I ask the deputy leader a further question? If the Senate sits Wednesday but not Thursday, is it the understanding that on Wednesday the Senate will adjourn until the following week?

Senator Langlois: Yes, the Senate will very likely adjourn to the following Tuesday, depending on legislation coming from the other place.

Motion agreed to.

BROADCASTING

REFERENCES TO NEWFOUNDLAND BY CTV—QUESTION OF PRIVILEGE

Senator Greene: Honourable senators, I rise, pursuant to rules 33 and 34, on a point of parliamentary privilege. The CTV station here in Ottawa—and I am directed by rule 34 to refer specifically to the complaint I have with it—almost inevitably in its nightly report on the weather *qua* news refers to the weather in Newfoundland as "the weather on the Rock."

This may seem trivial, but I do not consider it trivial in the slightest. For those souls more gentle than I in this honourable chamber who are not familiar with the appellation, I will say that the Rock used to be the maximum security penitentiary on an island off San Francisco. So this cheap allusion and this petty humour are to me an insult to the good people of Newfoundland.

We have spent a great deal of money in making this city the capital of all the people of Canada.

[*Translation*]

Our program is bilingual so that our French-speaking fellow citizens can run their businesses, in their capital, in their mother tongue.

We English-speaking people used to call the city of Trois-Rivières "Three Rivers". Now, in all public documents, either in Parliament or in the various departments, we call this city "Trois-Rivières" because that is its proper name.

[*English*]

All of us as Canadians, and particularly those of us in Parliament, must always be alert in seeing to it that disrespect is not shown to the sensibilities of people all over this great country by anything done in the capital region, which is the capital of all of us. It seems to me that particularly an agency holding a right, via a CRTC licence, which is a right in the public domain belonging to all of the

people of Canada, must handle the responsibility that accompanies that right in accord with what is clear national policy. The national policy is to see to it that all parts of our country are treated with respect and dignity, not only in Parliament, but by those agencies which hold licences from and through the public domain.

● (1410)

You may deem it singular when a mere Upper Canadian rises to speak of the privileges of the people of Newfoundland, when there are so many senators here more competent to do that, but I feel sure that all of them, if they were aware of this point of privilege, must have felt that for them to complain might appear petulant, petty or small, and I think it particularly important that someone not specifically from Newfoundland should raise the point.

We have striven for unity in this country, and we will have unity when the problems and sensibilities of the people of one part of the country are just as jealously guarded by parliamentarians, in particular, from other parts of the country as they are by their local representatives. We will then have a clear understanding of all of Canada.

[*Translation*]

For my part, even if it were a privilege belonging to the province of Quebec, or to primarily francophone interests, I feel that it would be imperative for all those of us who are, first of all, Anglophones, to plead their case.

[*English*]

Fortunately, honourable senators, CRTC licences are now periodically reviewed, and I respectfully suggest, on this point of privilege, that TV station CJOH should apologize to Parliament and to the people of Newfoundland for this completely unwarranted breach of what I consider to be their privileges, and should undertake through its top management to treat its responsibility to all of the regions of Canada in this national capital with respect and dignity. And unless it does so, I propose to move a vote of censure, which surely the CRTC will consider in dealing with the renewal application, whenever it comes, of this station, which I respectfully submit has breached the privileges of Parliament through its insensitivity and rudeness to the people of the great province of Newfoundland.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Foreign Affairs have power to sit while the Senate is sitting on Tuesday next, June 22, 1976, and that rule 76(4) be suspended in relation thereto.

He said: Before the motion is put I would like to add a comment. Although it is not expected that the Senate will sit on Tuesday next until 8 o'clock in the evening, rule 7(1) states that:

> Unless otherwise previously ordered, the Senate shall meet for the transaction of business at two o'clock in the afternoon of each sitting day.

[Senator Greene.]

Therefore it is necessary for a committee wishing to sit in the afternoon of Tuesday next to obtain permission to sit while the Senate is sitting in order to have notice of any meeting published in the *Debates of the Senate* and the *Minutes of Proceedings of the Senate* of today.

Senator Grosart: I presume there are the usual good reasons for the request that the rule be suspended in respect of the sitting of this committee?

Senator Langlois: Of course, honourable senators. I am introducing this motion, and others in respect of other committees, at the request of the chairmen who claim that they have sufficient business at hand to sit while the Senate is sitting. As I have just said in referring to the rules of the Senate, there might not be a sitting on Tuesday afternoon. This is just to allow notice of this meeting to be printed in the *Debates* and the *Minutes of the Proceedings* of today.

The Hon. the Speaker: Honourable senators, is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit while the Senate is sitting on Tuesday next, June 22, 1976, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting on Monday and Tuesday next, June 21 and 22, 1976, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators have heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL MUSEUMS

STORAGE OF CANADIANA—FURTHER QUESTION

Senator Riley: Honourable senators, yesterday I directed a question to the Leader of the Government in respect to

the Canadiana stored in a barn or warehouse on Laperrière Avenue. At that time I should have gone further and said that when I went out there I did so with the express purpose of seeing a particular piece of artisanship, a piece of handicraft, by a master craftsman from my own city which was given to the National Museum by his daughter, Miss Belle Howe, The name of the craftsman was John D. Howe. I now realize that the New Brunswick Museum is associated in some way with the National Museum, because they recently contributed heavily to the building of a new wing. When I went to this barn-like warehouse, as I said yesterday, I found that there was no fire protection. There was protection in respect of a protective service in that one had to get a tag to go in.

Senator Grosart: Question.

Senator Riley: My question is: Why cannot that particular piece of handiwork or artisanship be transferred back to New Brunswick rather than being left in this barn-like warehouse which has no fire protection whatever? I meant to pursue this matter yesterday. I am sure that if honourable senators from other parts of Canada could see the Canadiana from all provinces, with various articles piled one on top of the other, they would rebel as I am rebelling against this type of policy.

● (1420)

Senator Grosart: Question.

Senator Riley: I just wonder if that can be returned to New Brunswick. The lady gave it as the masterpiece of her father's artisanship, for which he is very famous. Why does it repose in a barn-like warehouse without fire protection? I would like an answer to this. I do not wish to be—

Hon. Senators: Question.

Senator Riley: Question yourself. I have asked the question, and I would like an answer. Why can that not be returned to New Brunswick? The woman who donated it intended it to be available to be viewed by the people of Canada, and now it is reposing in a barn.

Senator Perrault: Honourable senators, while I know the honourable senator's concern may be shared by his colleagues in this chamber, including Senator Grosart, the Acting Leader of the Opposition, I can only suggest that, while inquiries can go forward to the appropriate sources in government, it may be appropriate also for the honourable senator to direct personal inquiries to National Museums of Canada with respect to his plan to return these treasures to New Brunswick. It may be appropriate also for the New Brunswick Government, if it so desires, to indicate its wish for a restoration of this piece of "Canadiana."

TRANSPORTATION

BRITISH NORTH AMERICA ACT—MOTION TO REFER SUBJECT MATTER TO TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE ADJOURNED

The Senate resumed from yesterday the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

[*Translation*]

Hon. Eugene A. Forsey: Honourable senators, first of all, I should like to congratulate from the bottom of my heart all the honourable senators who have already taken part in this debate on a matter which, to my mind, is of prime importance, not only for the Atlantic provinces but also for the country as a whole and for its unity.

Some may wonder why a senator from Ontario should get mixed up in this matter, but I must remind honourable senators that I was born in Newfoundland, that I am a fifth generation Newfoundlander. So I am specially interested in this matter and I dare take part in this debate both as a born Newfoundlander and as a Canadian and citizen of the province of Ontario.

[*English*]

I think, honourable senators, that our Constitution is unique in including, and by no means as a minor part, I might add, in its text a series of provisions with regard to transportation. Those provisions began, of course, with the inclusion in the British North America Act of 1867 itself of the section dealing with the construction of the Intercolonial Railway. That was an absolute condition, a *sine qua non* of the original Confederation. Honourable senators will recall that the resolutions adopted in Quebec in October 1864 encountered some difficulties, notably in the province of New Brunswick where they were turned down in a general election and also in the province of Nova Scotia where there was very strong opposition to them. The only way in which it turned out to be possible to proceed further in the matter was to procure the passage in the legislatures of New Brunswick and Nova Scotia of resolutions authorizing delegates to go to a further conference to arrange terms of Confederation on conditions just and equitable to the provinces of New Brunswick and Nova Scotia; but in the case of New Brunswick, if my memory serves, there was the explicit condition, "including an intercolonial railway." There is no question at all that without the provision of the British North America Act for an intercolonial railway the provinces of Nova Scotia and New Brunswick would never have entered Confederation.

I should like to add at this point that there is a widespread impression sometimes in central and western Canada that the intercolonial railway was merely a sop to the Maritime provinces, that it was a condition of their entry, and that was the whole story. That, honourable senators, was not the whole story. It was not only that an intercolonial railway was indispensable to the entry of the Maritime provinces into Confederation, but also that it was really indispensable for what was then the province of Canada, now the provinces of Ontario and Quebec, because of the conditions which prevailed at the time.

At that time, as I am sure I need hardly recall to honourable senators, central Canada, the province of Canada as it then was, was very heavily dependent on imports of manufactured goods from the United Kingdom, and for about six months of the year the St. Lawrence was frozen solid. During those six months it was possible to procure these imports from the United Kingdom only by bringing them in through the ports of Boston, New York, Portland and other ports in the United States, and there was, of course, an agreement to bring them through in bond. But thanks to

the annoyance in the United States with Great Britain, and to some extent with the British North American colonies as well, because of the attitude of Great Britain and some of the colonies during the American Civil War, there was grave danger that the bonding privilege might be cancelled; and this would have meant that central Canada, the province of Canada, would have been at the mercy of the United States. It could have been economically throttled for half of every year.

So quite apart from the defence aspects of the thing, which were also very important, there was the necessity of making sure that the province of Canada, if the Americans cut up rough, as they showed every sign of doing, would be able to bring in those indispensable imports from the United Kingdom, massive imports from the United Kingdom, through the ice-free ports of Saint John and Halifax.

So let no one suppose that this provision for an intercolonial railway in the original act was merely something thrown out as bribe, shall I say, to the Maritime provinces to come into Confederation. It was also a matter of insurance, military insurance and economic insurance, for the province of Canada. That is often overlooked.

Not only was that provision put in the original British North America Act for an intercolonial railway between the province of Canada, as it then was, and the provinces of Nova Scotia and New Brunswick, but subsequently when British Columbia came in there were included in the terms of union, if my memory serves me, not only one but two clauses referring to communication between the mainland of the province of British Columbia and Vancouver Island, and connections with the American west coast ports as well.

So that you had written into that supplement, as I might call it, to the British North America Act for the entry of British Columbia terms which provided for the guarantee of certain transportation services.

When the province of Prince Edward Island decided to come in, once again—as honourable senators have already been reminded by the eloquent discourses which have preceded my contribution to the debate—when the province of Prince Edward Island came in, again there was an explicit term included in the arrangements for union; and, of course, when my own native province of Newfoundland came in, the same thing happened. I don't need to go over that ground again, because it has been very fully and thoroughly covered by those who have spoken before me.

I merely want to emphasize, however, that there is probably no constitution in the world except ours which has provisions for transportation written into it in such hard and fast terms, such explicit terms, as at least they were thought to be at the time they were inserted. There is, I think, some ground for thinking that they have been treated in a rather lighthearted and cavalier fashion sometimes since.

● (1430)

I wanted, first of all to emphasize this essential factor of transportation in our Constitution, without which you simply would not have the Maritime provinces or Newfoundland or, for that matter, British Columbia—the condition there was not only for the connection between the mainland and Vancouver Island, but also for the building of a transcontinental railway—you simply would not have got these provinces into the union, into Confederation, into the Dominion, without these provisions regarding transportation. So this is a matter that concerns, essentially, not only the Atlantic provinces, though very specially the Atlantic provinces, but it is a matter of fundamental national importance; it is a matter of a fundamental undertaking that was given to the peoples of these provinces when they came into the union.

It does, however, of course, affect, especially at the moment, the two island provinces of Prince Edward Island and Newfoundland. I want to say that I subscribe entirely to everything that has been said by the representatives of those provinces in this house on the subject of the guarantees for transportation services which were supposed to have been given to those provinces in what we thought explicit terms by the terms of union in each case. I do not need to go into any detail on that. It seems to me that in fact anything that I can say today, after the speeches we have listened to, is really setting off squibs after a shower of meteors. The subject was covered not only in great scope and great depth, but with incomparable brilliance by one senator after another.

I simply think it is not good enough to say, "Well, if the traffic is there, and subject to this and subject to that, and let the people of the provinces, if they happen to be unlucky enough to live in an island province, let them pay, let them pay through the nose." This is not the way in which a solemn undertaking given by a great nation to its constituent parts should be treated.

I simply therefore wish to say that I endorse completely what has been said on this subject. I should be prepared, if the Senate were patient enough, to repeat in detail all the claims that were made on behalf of the two island provinces by my colleagues who have already spoken.

I would like to say, also, that I was impressed by the fact that in this discussion so far there has been a complete absence of any partisan spirit. There have been contributions from both sides of the house, and with a singular unanimity. If ever there was an occasion when the Senate displayed its independence, its relative lack of partisanship, I think this is that occasion. Indeed, there has been a complete and absolute absence of partisanship in the representations which have been made.

I am a little disappointed that we have had no comment from the leader of the house or the deputy leader. I think this is a matter on which it would be highly desirable to have some statement, if not of government policy—this is perhaps too much to hope for—at least of government sympathy with some of the contentions which have been advanced, with equal fervour by members of the Liberal Party and members of the Conservative Party in this house. I hope that before the debate is concluded, we may have some indication from the government, officially, of serious concern with this matter, which is a matter of vital importance, incomparable importance, to the two island provinces.

I have one other observation of a minor kind to make, and that is on the point that was raised by the Honourable Senator Macdonald about the right of the ferry employees to strike. As an old trade unionist and trade union official for many years, I endorse fully the general position Sena-

tor Macdonald takes about the right to strike, but I am not persuaded that it passes the wit of man to devise some means by which the employees of these ferries connecting the two islands with the mainland could not secure the benefits of whatever strike action may be taken by their unions, without an actual interruption of the ferry services. I do not think that the right to strike is an absolute one, and I think there are instances in which a particular small category of employees, engaged in an absolutely essential service like this, could be provided for by some other means than merely giving them the right to take part in a nationwide strike of a large body of employees of which they happen to form a portion. I am not persuaded, therefore, that the right of these employees to strike would in fact really be seriously interfered with if an arrangement were made by which they could secure the benefits of any strike that took place by their organizations without the essential ferry services being disrupted.

Perhaps Senator Macdonald is right about this. I am not prepared to go to the mat on the subject with him. I have far too much respect both for him and for his forensic ability to attempt anything of the sort. But I do feel that the matter is worth a little further consideration than perhaps he was prepared to give it.

Finally, I should like very much to see this whole question that has been raised by this inquiry referred to the Standing Senate Committee on Transport and Communications. Honourable senators will perhaps recall that a couple of sessions ago the Honourable Senator Cameron proposed that the whole question of rail transportation—and I think for the purposes of this inquiry, that includes motor transport, really, in the provinces of Newfoundland and Prince Edward Island—that this whole question should be referred to the Standing Senate Committee on Transport and Communications. For various reasons, that was not proceeded with, much to my regret. The subject has not been renewed, the motion has not been renewed either by the Honourable Senator Cameron or by anyone else. I was inclined myself to leave it to the Honourable Senator Cameron, whose speech on the subject was encyclopedic and whose knowledge of the subject was clearly equally encyclopedic. I must confess that the government's recently announced policy on the whole general subject of transportation seems to me to leave certain questions, at least certain doubts, seems to leave room for a thorough inquiry into the whole matter by a standing committee of the Senate and that particularly, perhaps, the aspects of that policy which concern the Atlantic provinces deserve a very thorough inquiry by the Standing Senate Committee on Transport and Communications.

There are a variety of aspects of this whole question, not only the ferries which we have been talking about particularly, but a variety of aspects of this question of transportation in the Atlantic provinces which are raised by the government's announced policy and which, I think I may venture to say, have caused a good deal of uneasiness in the Atlantic provinces. I doubt if I should be accused of what is sometimes considered by some people my besetting sin, exaggeration, if I say that there has been a good deal of uneasiness about some of the changes which are apparently being proposed.

I therefore should like to conclude, honourable senators, by moving, seconded by the Honourable Senator Bonnell, that the subject matter of this inquiry be referred to the Standing Senate Committee on Transport and Communications.

Senator Greene: Would the honourable senator permit a question?

Senator Forsey: Certainly.

Senator Greene: In that he has so effectively and accurately covered the undertakings at the time of Confederation, and in that the honourable senator is recognized, I think, nationally, as one of our great constitutional experts, I wonder if he could help me with the answer to this question. I have often heard it alleged that there were undertakings, either explicit or implicit, at the time of Confederation that a canal system would be made available in the province of New Brunswick to make the interior regions more accessible to world and Canadian traffic.

Was there in fact any consideration of a canal system in New Brunswick, or is this mythology that has grown up since?

Senator Forsey: I am afraid that the Honourable Senator Greene, like other people who make flattering remarks about my supposed expertise on the Constitution, is in for a disappointment. I don't know of anything of the sort, though there may well have been something of the sort, except possibly in relation to the proposed Chignecto Ship Canal across the Isthmus of Chignecto. That is perhaps what Senator Greene was referring to.

• (1440)

I do not know that there is anything explicit or even an implicit undertaking on this. There was a lot of discussion on it but this is a subject on which honourable senators from Nova Scotia or New Brunswick—especially New Brunswick perhaps—would be far better informed than I.

I know it is one of those perennial subjects which keep cropping up in the Maritime provinces. I think on a variety of occasions the matter has been gone into in some depth. It has looked as if the scheme for the Chignecto Ship Canal was pretty much of a dead duck. It would be difficult to construct, and costly, and the benefits of it were rather dubious.

I yield to any honourable senator from New Brunswick or Nova Scotia who would like to offer Senator Greene the enlightenment which he seeks and which I am incapable of giving.

Senator Buckwold: May I direct a question to the honourable senator? Did his motion refer to the transportation situation in the Maritimes, or to transportation generally across the country?

Senator Forsey: It referred to the subject matter of this inquiry, which I think is down here in the *Minutes of the Proceedings*, is it not?

I have forgotten the precise term but it is the whole question of transportation as involved in the British North America Act. Now, that would be enough to bring British Columbia, I suppose, into the picture too but it would refer primarily, I think, to the situation in the Atlantic provinces.

Senator Buckwold: I just wanted to have that clarified because certainly transportation is a major concern right across the nation. In my province, Saskatchewan, right now there is a major transportation inquiry, chaired by Mr. Justice Emmett Hall, doing a thorough review of rail line abandonment, and a whole series of other transportation problems connected with that matter.

I am presuming that in your motion you are referring basically to the Atlantic provinces. The reason I ask is that if it is a cross-country reference, I would like to be able to prepare for it.

Senator Forsey: The only answer I can give is that as I recall the terms of the inquiry, it says "... the British North America Act as it pertains to transportation," or words to that effect.

Senator McDonald is shaking his head. Perhaps he can correct me. What does it actually say? I have not got the text in front of me.

Senator McDonald: Honourable senators, as I recall, Senator Bonnell's inquiry refers to transportation in the Atlantic provinces under the British North America Act. I am sure that if it referred to Canada not only Senator Buckwold but many other people from Western Canada would be on their feet for some considerable time.

Senator Forsey: Senator McNamara has handed me the Orders of the Day and it appears to say "... calling the attention of the Senate to the British North America Act as it pertains to transportation."

I am sorry, Senator McDonald. If you can correct me, and if the Orders of the Day are not correct, all right, but that is what the Orders of the Day have. That means it would be confined, as I understand it, to the portions of the country where the British North America Act mentions transportation; namely, the Atlantic provinces, Nova Scotia and New Brunswick, in the act itself, and Prince Edward Island and Newfoundland in the terms of union of those two provinces with the Dominion, and British Columbia—which has not been discussed but it would clearly be covered because it was part of the terms of union with British Columbia likewise.

I cannot see that it would refer to the rest of the country because as far as I know there is nothing in the British North America Act specifically on transportation dealing with any but these parts of the Dominion.

Senator McDonald: Honourable senators, I am trying to locate the original motion in the *Minutes of the Proceedings*, but I am unable to do so. I am as confident as one can be that the original motion, as placed on the Order Paper, referred to transportation in the Atlantic provinces only. If I had a moment, I am sure I could find that by going back in the *Minutes of the Proceedings*.

Senator Forsey: Perhaps we could ask the Clerk to produce the record so we could have it beyond question or cavil.

Senator Phillips: Honourable senators, I remind Senator McDonald that in my rather indefinite remarks I ranged beyond the Atlantic provinces, and he may recall he asked me a question which I felt dealt with western provinces. Therefore, I feel that the inquiry deals with transportation in general.

[Senator Forsey.]

Senator McDonald: In general?

Senator Phillips: In general, yes.

Senator Forsey: The words "the British North America Act" clearly came into the thing. I am absolutely certain of that. If it is a question of transportation in the British North America Act, then you find it in one particular section of that act, in the terms of union with the provinces of Prince Edward Island, Newfoundland, Nova Scotia, New Brunswick and British Columbia. I do not think you will find anything in it about transportation, in any section of the British North America Act dealing with Manitoba or with the provinces of Saskatchewan and Alberta.

Senator McDonald: Honourable senators, I must apologize. I have just been handed the *Minutes of the Proceedings* of April 7, 1976 and it reads as follows:

> **By the Honourable Senator Bonnell:** 25th March—That he will call the attention of the Senate to the British North America Act as it pertains to transportation.

Therefore, I am in error and I apologize for that. If Senator Forsey has finished his remarks, I beg leave to adjourn the debate.

Senator Carter: Before the debate is adjourned, I wonder if Senator Forsey would permit one other question?

I want to say first how much I appreciated his very interesting historic account of how railways came to be an absolute necessity to prevent the essential provinces, Upper and Lower Canada—Upper Canada particularly—from being completely dependent upon American ports and from being at the mercy of the American government.

It is my understanding though that when it came to constructing the railway itself, or choosing the route of the railway, economic considerations gave way to military considerations. I am wondering if he would confirm that and, if so, say what impact that has had, in his opinion, on the economies of the Atlantic provinces.

Senator Forsey: Honourable senators, in answer to that question, I did make a parenthetical reference, I think, to the question of defence, which of course was immensely important at the time. Very few people perhaps now realize that right down to the end of the century we lived in fear of an American invasion. The last time, I think, was 1895, the Venezuelan affair. But certainly all through the first 20 years, at least, after Confederation, or 25 years, the idea of an American invasion could not be absent from the minds of the statesmen who ruled this country.

My recollection is that during the War of 1812, in order to try to get British troops up to Quebec in the midst of winter, they had to make a tremendous, epoch-making, forced march through the snows of New Brunswick to get them up there from the Maritime provinces. So it was highly necessary that there should be an intercolonial railway, simply for defence purposes, quite apart from economic considerations.

It was highly necessary also that it should be put as far as possible from the American frontier, which it was. Instead of taking it down through the middle of New Brunswick or, as economic considerations would have dictated, taking it through the State of Maine as they eventu-

ally did with the CPR, they put it away up in the north. This, of course, added considerably to the length of the line and, accordingly, to the expense of both construction and maintenance. So, the military factor did come into this thing.

As so often is the case in our history, a variety of factors operated and the purely economic factor was, to some extent, overridden by others and in this case, a military factor, the factor of defence of the "new nationality," as D'Arcy McGee called it, the necessity of protecting the country from American invasion.

I am very glad Senator Carter asked that question because it has enabled me to emphasize this other, immensely and fundamentally important aspect of the building of the Intercolonial and the extra cost which it placed upon the country and, of course, notably upon the Maritime provinces.

Senator Riley: Would the honourable senator permit another question? The Intercolonial Railway did not go all over New Brunswick; it ran from, as I think Senator Burchill will confirm, St. Leonard to Dalhousie Junction.

Senator Forsey: This is new to me. I travelled over the Intercolonial a great many times as a boy. My recollection is that it eventually ran from Ste. Rosalie Junction in Quebec clear down to Halifax, with branches to Sydney, and in the province of Prince Edward Island. My recollection is also that originally it began at Rivière-du-Loup and that the government subsequently purchased the Grand Trunk Line between Ste. Rosalie Junction and Rivière-du-Loup. I apologize for pronouncing it in that English way, but that is the way I was brought up to say the name when I was talking English. I am perfectly prepared to correct myself and say Rivière-du-Loup.

● (1450)

The Intercolonial originally ran from Rivière-du-Loup down to Halifax. It took some time to finish the line, of course, and it took in various local lines which had been built in the provinces of Nova Scotia and New Brunswick before Confederation.

But it is news to me that the Intercolonial was originally from St. Leonard to Dalhousie. Perhaps so. I should defer to the expert knowledge of the senators from New Brunswick, but I confess my surprise at hearing that it was as limited as all that.

Senator Burchill: Honourable senators, may I just say that the subject of transportation has been a perennial one in the years that I have been in Parliament. I think it has been the subject of debate every year. It is interesting for me to sit here and listen to the contributions being made this year to a debate on a subject of such vital importance to the Maritime provinces.

With respect to the particular aspect we are referring to now, I should just like to point out that it was the subject of a great political battle in days gone by between those who advocated having the route down the valley of the Saint John River and those who wanted it around that very north country to which my honourable friend has referred, and which I have the honour to represent in this house.

Senator Forsey: Hear, hear.

Senator Burchill: I refer to the north shore of New Brunswick. The battle was a bitter one at the time, and the north shore always honoured the name of the Honourable Peter Mitchell, who was the representative of Northumberland County in the first Cabinet, for his influence in at last persuading them to build the railway around the north shore. For that we who live there have always been most grateful to his memory. The railway may have been built for military purposes, but I think there was some politics in it, too.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Forsey, seconded by the Honourable Senator Norrie, that the subject matter of the inquiry re the British North America Act as it pertains to transportation be referred to the Standing Senate Committee on Transport and Communications.

Is it your pleasure, honourable senators, to adopt the motion?

Senator McDonald: No. Honourable senators, I have no objection to this matter going to committee, but I should like the opportunity to examine the BNA Act to see if there is anything in it pertaining to the Prairie provinces and, in particular, Saskatchewan. If so, I should like to speak to it. If there is nothing in the Constitution pertaining to the Prairie provinces, I may never speak on the subject, but I should like the opportunity to find out. Therefore, I should very much like to have the opportunity to adjourn the debate.

Senator Forsey: If I may say so, honourable senators, I would ordinarily speak to the motion, but I have already said all I want to say about it. Therefore, it seems to me that it is open to any other senator to take part in the debate if he sees fit to adjourn it. If I may venture to say so, Senator McDonald is on very strong ground.

On motion of Senator McDonald, debate adjourned.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

SEVENTEENTH MEETING

Hon. Alan A. Macnaughton rose pursuant to notice:

> That he will call the attention of the Senate to the Seventeenth Meeting of the Canada-United States Inter-Parliamentary Group, held at Key Biscayne, Florida, U.S.A., from 29th January to 2nd February, 1976.

He said: Honourable senators, it is not my intention to keep you too long this afternoon, particularly as I have had the privilege on several occasions in the past to speak about the same subject and it would be reiterating my firm belief in the necessity for good relations between Canada and the United States merely to make the same argument once more, important as it is. I should like, however, to give you a brief report on the Seventeenth Meeting of the Canada-United States Inter-Parliamentary Group which took place in Key Biscayne, Florida, from January 29 to February 2, 1976.

The United States delegation was led jointly by Senator Gale W. McGee of Wyoming and Congressman Thomas E. Morgan of Pennsylvania. The Canadian delegation was led

jointly by the Honourable Martin O'Connell and myself as co-chairmen.

The Honourable Renaude Lapointe accompanied the delegation in her capacity as Honorary President of the Canadian section. Needless to say, her presence throughout our meetings and her active participation in all of our activities contributed greatly to the success of the Canadian delegation.

For the record, the senators on the delegation, all of whom were charged with special duties were: Senator Benidickson, Senator Godfrey, Senator Lafond, Senator van Roggen, Senator Asselin, Senator Flynn and Senator Grosart.

From the detailed report which I hope, with the consent of honourable senators, to table today, it will be seen that all senators were made responsible for the discussion of particular subjects on the agreed agenda. In particular, Senator Grosart, Vice-Chairman of the Canadian delegation, acted as Co-chairman of Committee III, dealing with energy questions—gas and oil exports, pipeline routes, and tanker routes—agricultural questions, and the Seventh Special Session of the United Nations. The Honourable Martin O'Connell and I acted as co-chairmen of Committees I and II respectively.

Established in 1959 by joint legislative action, this group, the Canada-United States Inter-Parliamentary Group, is without doubt the most important inter-legislative contact which Canada has.

In view of the growing importance and relevance of Congressional action in many Canadian-American issues, an importance which was recently underlined by the report of the Standing Senate Committee on Foreign Affairs on Canada-United States Relations, the Canadian section has sought to improve these legislative encounters by making the discussions more substantive, more relevant to the current bilateral problems. In this objective we met with willing cooperation from our United States counterparts.

My opinion is that this meeting in Florida was the best such meeting that I have attended, an opinion which was endorsed by several American congressmen who have been long-term participants. Among those congressmen I would like to mention particularly the American co-chairman of the House of Representatives Committee on Foreign Affairs, who, over the years, has made a great contribution to these meetings. He is a good friend of Canada, perhaps somewhat influenced by the fact that he has a Canadian wife—who is from Winnipeg, by the way. As he is retiring from Congress, this was his last meeting of the Canada-United States Inter-Parliamentary Group. All Canadian delegates joined with me in thanking him for his contribution to the meetings and, as a token of the Canadian Parliament's esteem, I, as Canadian co-chairman, presented Representative Morgan with the Bronze Parliamentary Medallion.

● (1500)

With the consent of honourable senators, I will later on propose that the summary report of the discussions be printed in today's *Debates* as an appendix.

For the meetings, the delegates were divided, as last year, into three committees. Committee I concentrated mainly on environmental problems along the border and off the coasts. Committee II discussed mainly bilateral trade issues. Both Committee I and Committee II discussed also the issue of Canadian cultural legislation and regulations. Committee III dealt with bilateral energy questions, agricultural issues and the United Nations Special Session on International Development.

With Congressman Morgan, I had the honour to co-chair the discussions of Committee I. There were, within that committee, some lively exchanges, particularly on the Garrison Diversion Unit, west coast pollution, law of the sea questions, and the deletion of commercials on cable TV.

Honourable senators might find it interesting to read in more detail the summary of these discussions and those of the other two committees, which I hope will be printed in the *Debates of the Senate*.

At the plenary session, the rapporteur in each committee reported his committee's discussions. This was followed by a wide-ranging discussion on the general state of Canadian-American relations. There was wide participation by both delegations, which focused in a valuable way, I think, on the dangers of misunderstanding by Americans of measures which Canada has found it necessary to take in order to protect its identity.

Over all, I can say that the discussions throughout were of a high quality. Delegates from both sides had been briefed on details of the issues under discussion and were well prepared. I might add that copies of the recent report of the Standing Senate Committee on Foreign Affairs were distributed among the American delegation. Co-Chairman Morgan remarked particularly on the report's recommendation for improved Canadian contacts with Congress.

I should like to say a few words about the setting for the meeting. Last year, for the first time, the entire meeting of the group was held outside a capital city—that is, Washington or Ottawa—when we chose Quebec City, and I think it worked well. The reason for moving out of the capitals was to provide both groups of busy legislators with a period of time when they would not be interrupted by legislative duties, and votes, bells and telephones, as would be the case if they were in one capital or the other. In such a setting, away from a capital, delegates are able to give committee discussions their undivided attention. This year the American side responded to this idea and chose Key Biscayne, Florida, as the site for the meetings. This proved a very pleasant choice from the point of view of the Canadians, particularly in the months of January and February.

Successful meetings are the result of careful planning. Congressman Fascell and Congressman Pepper of Florida should be especially congratulated on their personal efforts on behalf of the Canadian delegation.

I might also mention the Canadian gift of Centennial coins to each United States delegate, together with the Centennial calendar depicting in historical terms the Centennial contact between our two peoples. This was very favourably received.

It will come as no surprise to honourable senators when I give special thanks to Mr. Ian Imrie and his assistants, and to Mr. Peter Dobell and Mrs. Carol Seaborn, for the

briefing and staffing arrangements made prior to the meeting.

In closing, may I report that at the recent annual meeting of the Canadian Section of the Canada-United States Inter-Parliamentary Group, Senator Lang was elected co-chairman and Senator Jacques Flynn vice-chairman of our organization.

With leave of honourable senators, I now table the report of the Canadian Section on the Seventeenth Meeting of the Canada-United States Inter-Parliamentary Group, in English and French, and ask that it be printed as an appendix to the *Debates of the Senate* of this day.

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 2224.*)

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Senator Everett: Honourable senators, I have the honour to present the report of the Standing Senate Committee on National Finance on supplementary estimates (A) for the fiscal year ending March 31, 1977. I would ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of the Proceedings* of today and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report see Appendix "B", p. 2234.*)

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

Senator Everett moved that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

Motion agreed to.

HEALTH, WELFARE AND SCIENCE

ANNOUNCEMENT OF COMMITTEE MEETING

Senator Langlois: Honourable senators, may I have leave to make a brief announcement?

Hon. Senators: Agreed.

Senator Langlois: Honourable senators, when making my statement on the adjournment motion, I did not know that the Standing Senate Committee on Health, Welfare and Science had a meeting scheduled for Tuesday next, June 22. I have since been informed by the chairman that this committee will meet at 5.30 p.m. on Tuesday.

Senator Grosart: With permission.

The Senate adjourned until Monday, June 21, at 8 p.m.

29555—90½

APPENDIX "A"

(*See p. 2223*)

REPORT OF THE CANADIAN SECTION ON THE SEVENTEENTH MEETING OF THE CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

The Seventeenth Meeting of the Canada-United States Inter-Parliamentary Group took place in Key Biscayne, Florida, January 29 to February 2, 1976.

The United States delegation was led jointly by Senator Gale W. McGee (Wyoming) and Congressman Thomas E. Morgan (Pennsylvania). In addition to the two Co-Chairmen, the delegation consisted of the following members:

Senate

Hon. Carl T. Curtis (Nebraska)
Hon. Quentin N. Burdick (N. Dakota)
Hon. Ted Stevens (Alaska)
Hon. Mike Gravel (Alaska)
Hon. William D. Hathaway (Maine)
Hon. Ernest F. Hollings (S. Carolina)

House of Representatives

Hon. Harold T. Johnson (California)
Hon. William D. Randall (Missouri)
Hon. Lloyd Meeds (Washington)
Hon. Dante B. Fascell (Florida)
Hon. Sam M. Gibbons (Florida)
Hon. John J. LaFalce (New York)
Hon. Max Baucus (Montana)
Hon. Claude Pepper (Florida)
Hon. Pierre S. du Pont (Delaware)
Hon. Robert C. McEwen (New York)
Hon. Philip E. Ruppe (Michigan)
Hon. Jack Kemp (New York)

The Canadian delegation was led jointly by the Honourable Alan A. Macnaughton, P.C., of the Senate and the Honourable Martin O'Connell, P.C., M.P., of the House of Commons. The Speaker of the Senate, the Honourable Renaude Lapointe, accompanied the delegation in her capacity as an Honorary President of the Canadian Section.

The other members were:

Senate

Hon. W. Benidickson, P.C. (Ontario)
Hon. J. Godfrey (Ontario)
Hon. P. Lafond (Quebec)
Hon. George van Roggen (British Columbia)
Hon. M. Asselin, P.C. (Quebec)
Hon. Jacques Flynn, P.C. (Quebec)
Hon. Allister Grosart (Ontario)

House of Commons

Miss Coline Campbell, M.P. (Nova Scotia)
Mr. Jacques Guilbault, M.P. (Quebec)
Mr. Ed. Lumley, M.P. (Ontario)
Mr. John Roberts, M.P. (Ontario)
Mr. W. K. Robinson, M.P. (Ontario)
Mr. Jacques Trudel, M.P. (Quebec)
Mr. Roger Young, M.P. (Ontario)
Mr. L. Alexander, M.P. (Ontario)
Mr. P. Bawden, M.P. (Alberta)
Mr. David MacDonald, M.P. (Prince Edward Island)
Mr. Jack Marshall, M.P. (Newfoundland)
Mr. Jack Murta, M.P. (Manitoba)
Mr. Frank Oberle, M.P. (British Columbia)
Mr. Andrew Brewin, M.P. (Ontario)
Mr. Gilbert Rondeau, M.P. (Quebec)

Summaries prepared by the Canadian Section of the discussions held in the three Committees and the closing plenary discussion are attached herewith.

Respectfully submitted,

Alan A. Macnaughton
Co-Chairman.

Martin O'Connell
Co-Chairman.

AGENDA

COMMITTEE I

Great Lakes Water Quality Agreement
Trans-boundary river pollution problems
(1) Garrison Diversion Unit
(2) Flathead River
(3) Richelieu and Lake Champlain
(4) Skagit River
Coastal pollution problems—tankers and refineries
(1) West Coast
(2) Eastport
Salt water boundary issues off Maine and the West Coast
Law of the Sea
Canadian cultural legislation and regulations

COMMITTEE II

Canada-U.S. Automotive Agreement
U.S. Dumping Charges and Countervailing Duties
Multi-National Corporations
(1) U.S. application of controls on trade with Cuba
(2) Canadian Foreign Investment Review Act
(3) Extension to Canada of U.S. restrictions on political contributions
(4) Potash
Canadian anti-inflation programme
Canadian cultural legislation and regulations
Multilateral trade negotiations

COMMITTEE III

Energy
(1) Gas and oil exports
(2) Pipeline routes
(3) Pipeline treaty
(4) Tanker routes
Agricultural Questions
(1) Egg and beef quotas

(2) Grain—national marketing systems
—international perspective
7th Special Session of U.N.

COMMITTEE I

THE GREAT LAKES WATER QUALITY AGREEMENT

Opening discussions dealt with progress toward the objectives laid down in the Agreement. The Canadian spokesman pointed out that by the end of 1975 Canada had 97% of targetted projects completed or in process of implementation, while the United States had only 60%. American delegates spoke of the Talmadge-Nunn amendment in the Senate, which would have imposed further delay in the appropriation of U.S. sewage treatment funds. Assurances were given the Canadian delegates that, while this amendment had been popular in the House, the final result of the Congressional legislative conference would not be detrimental to the Great Lakes clean-up projects. By the end of 1976 when the Detroit plants are completed the U.S. side's percentage will rise from 60% to 80% and by 1978 it will rise still higher.

It was recognized that Lake Erie was still a problem due mainly to the phosphates' discharge which is not controlled on the American side. Lake Ontario's problem appears to involve the discharge of chemicals, including PCB's, which may be transmitted by air as well as by direct discharge. The Canadian side drew the Committee's attention to the recent *Environmental Contaminants Act* which requires industry to inform government of the likely environmental impact of any new or expanded activities as an example of legislation which merited attention. It was argued by both sides that air pollution of the lakes should be looked at more carefully. Vessel pollution from both commercial and pleasure craft were cited as an additional problem. Remedial controls varied between the two countries, Canada preferring a requirement for holding tanks and the U.S. satisfied with treated flow-throu gh systems.

While admitting that U.S. states bordering on the lakes were more concerned about Great Lakes pollution than was the U.S. federal government, an American spokesman stated that Congress should again make this vast clean-up programme a top priority.

GARRISON DIVERSION

On the Garrison Diversion project, a lively discussion took place mainly between legislators from closely involved areas on both sides of the Manitoba/North Dakota border. The American spokesman contended that

(a) the project was not in violation of the treaty,

(b) the project might even result in an improvement to the quality of the Souris River

(c) the possibilities for irrigation would be improved as would flood control.

In particular this spokesman stressed that the Souris River was dry more than 40% of the time—often up to six months in a year in recent decades. Although the mock-up done by the American authorities showed there might be some increase in salinity, he disputed that the large increased flow resulting from the project would detrimentally affect the growing season in the area.

The Canadian spokesman stated that the Canadian and Manitoba concerns centred on three aspects:

(a) the increased frequency and duration of flooding particularly in the Souris River

(b) the possible degradation of the water due to leaching of sulphates, chlorates, nutrients or pesticides etc. through the soil into the water

(c) the introduction of previously unknown fish, parasites or fish diseases into the Souris-Assiniboine-Red River system from the Missouri system.

Canada and Manitoba presented formal objections to the project to the IJC. Stressing Canadian concern over possible degradation of a system stretching right up to Hudson's Bay, the Canadian delegates asked about the Souris loop alternative and also whether the work might have gone ahead so far that the IJC report would be merely academic when it was issued.

The American spokesman stated that, while work was continuing, nothing would be completed which would irrevocably affect Canada. There was still a long way to go before completion. The alternative of the Souris loop was still possible. In concluding discussion, it was clear that the United States recognized Canada's serious concern and that further scrutiny would be given the project in Congress. Both sides are prepared to await the results of the IJC report which it was hoped would be completed before the end of the year.

RICHELIEU-LAKE CHAMPLAIN

Discussion on the Richelieu-Lake Champlain issue revealed that while farmers on both sides of the border would welcome a flood control structure on the Richelieu, a large number of environmentalists on the United States' side were concerned that the environmentally important wetlands would be detrimentally affected and opposed any regulation of the outflow of Lake Champlain without further studies. Although Canada had recently made application to the IJC for approval to construct a new submerged weir which it was thought would have no adverse effects, the United States side urged that Canada should not go ahead with this project until further IJC environmental studies have been made, even if the Canadian application were to be approved by the IJC.

FLATHEAD RIVER

In discussing the potential pollution to the Flathead River in Montana if projected coal mining by Rio Algom was to proceed in the Cabin Creek area of British Columbia, the American spokesman emphasized the completely unspoiled beauty and clarity of the river. Business, government and environment interests in Montana were united in wanting to keep it that way. They were anxious to have a reference to the IJC on the question, although the State Department appeared reluctant to do so at this point.

In view of the fact that 85 percent of the river's watershed area is in British Columbia there was Canadian understanding of Montana's concern. It was pointed out, however, that a minimal degradation or darkening of the water would not necessarily hurt the fish; in fact the contrary had been observed in some rivers where fish had doubled in size. In any case the company's feasibility and

environmental studies were not yet complete and Canada had undertaken to consult closely with British Columbia and would ensure there was no violation of the Boundary Waters Treaty.

It was questioned whether Article IV of the Boundary Waters Treaty was sufficiently strict and whether it adequately reflected the present level of concern for the environment and quality of life. The suggestion was made by an American spokesman that the Treaty should be revised and amended to tighten it up.

SKAGIT

Although not on the Committee's agenda, problems related to flooding of the Skagit valley were briefly discussed. Delegates agreed that because a new British Columbia government was now in power there was a fresh opportunity for the two parties directly involved, namely Seattle and British Columbia, to discuss alternatives to flooding of the valley and settle the question between them. A Canadian delegate offered to take the initiative to bring the two sides together and this idea was readily endorsed by the American spokesman.

EASTPORT

Discussion on the Pittston Company's proposal for an oil refinery at Eastport, Maine, revealed that general public reaction in Maine is overwhelmingly against the project. Even pressure from the oil company and the people of Eastport itself has lessened in the past year. Further, no approach has been made to seek Canadian approval for tanker traffic through Canadian waters, a pre-condition to Pittston proceeding with the project.

It was pointed out that one undeveloped and alternative source of energy for the east coast was tidal power. The suggestion was made that there might be a joint Canada-U.S. approach to updating a feasibility study for a Fundy Basin tidal project with the possibility of joint development of this energy source.

WATER BOUNDARIES

On the east coast water boundary issue there was recognition that the Canadian espousal of the median line theory differed substantially from the American contention that Georges Bank is a natural prolongation of U.S. territory. The delegates agreed that the various water boundary disputes between Canada and the United States would each have to be settled on their own merits, not related to one another. American spokesmen assured Canada that bilateral water boundary disputes would not be affected by recent Law of the Sea legislation passed in the U.S. Congress.

WEST COAST POLLUTION

Discussion revealed that two new factors have emerged in the past year in relation to the problem of west coast tanker pollution. First, there is a growing realization that the State of Washington may have to serve as a major transshipment point for supplying oil to the northern mid-west states. This would involve supertankers bringing in 1,300,000 barrels a day instead of the earlier estimated 300,000 barrels a day and probably require two or three new refineries. Secondly and related directly to the first, there is the developing concern and opposition by the general public in the state to supertankers coming into Puget Sound to off-load oil. The State legislature has recently passed legislation modelled closely on a Congressional bill which prevents a tanker over 100,000 tons entering Puget Sound. Although an oil company is challenging the law's validity, the legislation is likely to be upheld. Another important impact has been made by a recent State of Washington study which assessed the pollution risks of alternative areas for petroleum off-loading. It concluded that the Port Angeles location offered two or three times less risk than that for the Cherry Point-Anacortes alternative in Puget Sound. A Canadian participant agreed that Port Angeles was a more desirable terminal point in the Canadian view, than Puget Sound, but said Canada wished it could be off-shore. It was pointed out, however, by the U.S. side that Gray's Harbour was not feasible for many reasons.

The American spokesman explained the problem of oil supply for the Pacific Northwest and the mid-west. By 1983, with Canadian cutbacks and projected needs, 50% of supply would have to be brought in. He stated that Prince Rupert as an off-loading point would cope only with the Pacific Northwest and not with the mid-west. In any case there were some doubts in the Pacific Northwest about doing business with Canada in view of the recent gas export supply and price problems. As for the alternative possible Mackenzie Valley line to supply mid-west markets, an American participant stated a delay in settling Canadian native rights claims should be taken into consideration.

In respect to measures to prevent oil spills, it was acknowledged that American vessel traffic management measures especially in the Straits of Juan de Fuca were inadequate. Increased effort and funds should be forthcoming to provide an effective system of controlling incoming and outgoing tanker traffic in the area particularly in view of the projected increase in size and number of tankers involved.

The problem of containing huge oil spills and the techniques used for clean-up were also discussed. Both sides agreed that more research was urgently needed in this area and there was also recognition that it would be costly.

LAW OF THE SEA

On this subject, the discussions centered on the U.S. Senate bill establishing a 200-mile fishing limit off U.S. coasts which had been passed by the Senate two days before the meeting. U.S. delegates emphasized that the legislation established an interim conservation zone and that the main aim of the bill was to protect certain species until the Law of the Sea Conference could agree on conservation measures. The law also was designed to encourage ground fishing for the U.S. It would not take effect until July 1977. U.S. delegates expressed the opinion that the Senate version would probably prevail in Conference and the President would probably not veto it.

American participants explained that the delay in the Law of the Sea negotiations in reaching a successful conclusion had pushed the Congress into this unilateral action. It was designed to obtain some regime for the living resources before it was too late. Opinion was sharply divid-

ed among the U.S. delegates as to whether such unilateral action would trigger other nations to follow suit with unilateral action of their own. A Canadian delegate expressed the view that there would be a resulting political pressure on the Canadian government to take similar action.

Concern was expressed by delegates on both sides that the developing nations in particular would find it hard to understand this action as anything but selfish when taken by such a wealthy country as the United States. It was, said an American, only a matter of $950 million in a trillion dollar economy. The unilateral grabbing of 200 miles, he said, might endanger future American relations with the developing countries. He urged Canada to intervene in multilateral conferences on the U.S.'s behalf to mitigate the negative reaction among the developing nations.

It was questioned whether the U.S. action would prejudice the chances of agreement at the upcoming March and July sessions of the Law of the Sea Conference. The American side explained that the delay in the effective date of the legislation, to July 1977, should circumvent this difficulty and might, in effect, act as a stimulant to a successful settlement.

One Canadian participant stated that Canada was unlikely to move unilaterally even in view of the U.S. move because not only a regime for the living resources was involved. All aspects of Law of the Sea questions had to be included, such as questions related to the deep sea bed, pollution and international straits. One American delegate stated that the key to the multilateral negotiations was the deep sea bed and another U.S. participant spoke of the strength of the U.S. mining lobby.

The Canadian approach, explained several delegates, was to obtain a breathing space in the critical fisheries problem. One Canadian thought the U.S. unilateral move might make this more complicated for Canada. Canada's objective was to protect the species and fishing rights by concluding a series of bilateral agreements limiting fishing off Canada's coasts with countries which had traditionally fished off Canadian coasts. This technique had already had considerable success and agreements or negotiations had already been entered into with Norway, Spain, Poland and Portugal.

The American side assured Canadian delegates that neither the House nor the Senate bill would overtake agreements or abrogate treaties and that Canadian-American arrangements or negotiations in these areas would not be affected.

CANADIAN CULTURAL LEGISLATION AND REGULATION

In Committee I's discussion of this question,* the American side contended that the Canadian regulations and legislation regarding cable commercial deletion and the status of Canadian advertisers on U.S. stations constituted a violation of GATT by putting an imported good or service in a disadvantageous position. Further they also contravened Section 306 of the U.S. Trade Reform Act. The U.S. spokesman said that United States' interests were ready to sit down and work out some agreement on the problem. Otherwise he said there was a real possibility of American retaliation. Jamming was specifically mentioned. Why, asked the American spokesman, does not Canada cut out the whole programme, why only the commercial signal?

It was clear from the discussions that there were differing Canadian viewpoints on this issue as there had been among American delegates in regard to the Law of the Sea questions discussed earlier. The Canadian regulations were explained in terms of the need to protect Canada's cultural integrity with all the difficulties entailed in a vast country, a small scattered population, two official languages and indigenous Indian and Eskimo groups. The extent and effect of the spillover of U.S. programmes on Canada was set forth and it was stressed that 34% of Canadian programmes are purchased from U.S. producers. The amount, about $20 million, spent by Canadian advertisers on U.S. television stations amounted to 10% of the income of the entire Canadian television industry and this money was needed to support the expansion of the industry into additional parts of Canada. In addition there was advertising by U.S. multinationals which spilled over into Canada and removed further substantial additional advertising revenue to Canadian television. An American T.V. station had admitted before a Canadian legislative committee that the major portion of its profits were secured on the Canadian market, but it recognized it was not licensed for Canada. It was revealed during discussions that passage of Bill C-58 would have a delayed impact on Canadian advertisers and U.S. stations in view of the fact that advance two-year advertising packages had been sold to Canadian advertisers in anticipation of the Canadian regulations. Both sides agreed that it was a positive step that representatives of the two governments had finally met on this issue, but the American side expressed the hope that there would be a parity in the level of participants at the next meeting on this subject.

COMMITTEE II

TRANS-BORDER ECONOMIC ISSUES

The American chairman opened the meeting with a general statement on Canada-U.S. relations. It was his view that if the United States took Canada for granted, it was because the friendship between the two countries was that of two life-long friends whose relationship was unquestioned unless some extraordinary event occurred. Such a friendship was never seriously impaired by small irritants. If Congress appeared to be disinterested in Canadian affairs, he attributed this to its preoccupations with other problems around the world. The Canadian chairman agreed that the mutual friendship between Canada and the U.S. lent itself to the resolution of disagreements in a reasonable way.

CANADA-U.S. AUTOMOTIVE AGREEMENT

The discussion of the auto pact was introduced by two American participants who dismissed the current call for renegotiation in the media in the United States as not representative of the true view of Congress. The auto pact was a landmark agreement which might need a general review after 11 years but did not require renegotiation, was working well and had substantially benefitted both

*This issue was also discussed in Committee II.

countries. The protest in the United States had arisen as a result of increased unemployment in the auto industry and the automatic move toward a more protectionist posture following a downswing in the economic cycle. Statistics did represent something of a problem on the American side. Most countries, including Canada, add the cost of transport and insurance to their import figures, while the United States' statistics are based on FOB figures. However, when U.S. figures were reconciled with those of Canada, the U.S. surplus on the auto pact was 'gargantuan'.

The Canadian spokesman welcomed these observations, observing that neither the report to the U.S. Senate Finance Committee or public comment from the U.A.W. had actually expressed the need for a complete renegotiation of the pact. Canada was concerned about the present situation where 25% of its current trade deficit of about $5 billion could be directly attributed to a deficit in automotive trade.

The Canadian Auto Parts Association were particularly alarmed by their share of the deficit. To emphasize the size of Canada's current trade deficit, he suggested that American participants multiply the figures by 10 and ask how they would feel in such a situation. His main concern, however, was that the auto pact should help make the industry more viable as a North American industry able to withstand the increasing threat of foreign imports. At present 13 percent of auto sales in Canada were non-North American manufacture and he felt a joint effort was needed to strengthen the competitive position of this major North American industry.

The U.S. side raised the question of the continuation of safeguards, asking if the Canadians viewed them as permanent. Several Canadians participated in this discussion. The need for safeguards was supported by the fact that in only three of the 11 years of the pact's existence had there been a surplus in Canada's favour. The industry was almost 100 percent controlled by American companies. There was no disposition in Canada to forego the safeguards.

Another American raised the subject of transfer pricing, to which the Canadian side responded that the impetus in Canada was toward retail price parity. The price differential was currently 5.1 percent, but it should be noted that one third of the profit to American manufacturers resulted from their sales in Canada. Another Canadian felt that the trade in farm machinery should be contrasted with the auto trade. There has been no pressure in Canada to reverse that situation, even though there had been a deficit of $2½ billion in farm machinery trade during the 11 years of the auto pact and this situation has been accepted in Canada.

The concluding statement by an American participant set the auto pact in context, suggesting that it should serve as a model for other areas of trade and that Americans should understand it as a part of Canada's overall effort to build up its industrial base.

ANTI-INFLATION PROGRAMME

The discussion moved directly on to the Canadian anti-inflation programme as the result of a question from the American side about the potential effect of the new wage and price controls on the auto industry. In general terms he wished Canada the best of luck with its programme. The mistakes made by the United States in maintaining price and wage control for an extended period would be judged by history. It was already clear that the control system in the U.S. had only masked inflation, that inflation had been delayed but not prevented by the Administration's action. In his opinion the U.S. economy was so complicated that a control system could not have worked anyway. It was his hope that the U.S. would never again attempt such action except in time of war.

A Canadian participant described phases of the Canadian programme of restraint and the penalties established in the legislation. He acknowledged that there was concern in Canada that the programme would not work and noted that the Canadian labour movement had established a $500,000 fund to work against the programme. He wondered if the lower rate of inflation in the U.S., 2 percent less than in Canada, could be attributed to the earlier control programme.

In general the American side was pessimistic about the prospect for success, to which the Canadian side responded that the Canadian government realized that there were pitfalls and that the Canadian programme involved only limited interference in the market dictated by the necessity to check the impetus of high wage settlements and to maintain Canada's competitiveness in the U.S. market. The American side accepted assurances that the excess profits levy on export sales would have no effect on the American market and that the programme imposed no control on the price of imports.

U.S. DUMPING CHARGES AND COUNTERVAILING DUTIES

A Canadian participant introduced this topic by noting that these two actions long authorized by U.S. legislation have been applied against Canada. He raised the case of the American action against Michelin Tire, a company which had received assistance from the Department of Regional Economic Expansion in order to locate in Nova Scotia. The United States had imposed countervailing duties, claiming the assistance had been a form of export subsidy. An American acknowledged that subsidies were suspect and called for the automatic application of duties. He agreed that in fairness the U.S. should perhaps look more at the impact and make a deeper analysis of the injury imputed. The American legislation was the result of an historical accident and would be reviewed to bring it into line with practise of other countries, possibly in the multi-lateral trade negotiations. There remained, however, a residual concern that subsidies should not replace tariffs as a new form of trade barriers. If a solution to this Canada-U.S. bilateral misunderstanding can be found, it would have a favourable impact on the multilateral trade talks.

SASKATCHEWAN TAKE-OVER OF POTASH COMPANIES

The Canadian who led off this discussion hoped that his remarks would be reassuring to the American side. He gave the background to the action recently taken by the Saskatchewan government in preparing legislation to enable it to assume control of part of the production of potash in that province either by purchase or expropria-

tion. He stressed that the province had the full right constitutionally to take this action. It was in part a response to a dispute between the provincial government and the companies about production expansion. There was provision for adequate compensation for any take-overs including a system of arbitration. The province wished to see production expanded, not held back, and therefore it was extremely unlikely that the province would take any action which might endanger this important market. Saskatchewan knew that the U.S. had alternative sources of supply and this would hold the price down. He described the trip made by the Premier of Saskatchewan to New York to raise the funds needed to proceed on this matter. As a personal note the Canadian participant re-assured the Americans that the premier, while the head of a socialist government was moderate and reasonable, and American agriculture could be confident that Canadian exports would be maintained.

One American participant felt that the Canadian federal government ought to make it clear to Saskatchewan that it did not approve of the proposed take-over. This provincial action could reduce Canada's attractiveness to American investors. Canadians responded to these comments by pointing out that the federal Minister of Finance had told the province it would be liable to pay federal taxes on the mining operations. Otherwise, the province was constitutionally entitled to take this action to protect a resource under its jurisdiction. Canada had long had a mixed economy and public ownership of natural resources existed in several fields. In response to an American question a Canadian replied that the possibility of a federal veto of the Saskatchewan legislation was thought to be remote since this action had not been taken in Canada for nearly forty years. Canadians would, however, be concerned if U.S. investment in Canada was discouraged. An American participant was sanguine that Saskatchewan would act primarily to protect its sales, and that this would dictate fair treatment.

FOREIGN INVESTMENT REVIEW ACT

A Canadian participant introduced the discussion of this Act, which he felt was no longer controversial. He explained that the Review Board gave advice to Cabinet which accepted or rejected it. Phase I had been in operation successfully since April 1974. Phase II which establishes the rules for the review of the establishment of new business by foreign enterprises has only been in operation since October 13, 1975. One question which might create a problem for the Review Agency concerned intellectual property, a foreign company for example might wish to sell a trade mark which would be considered the property of the Canadian subsidiary. Any new controls would require changes in the present legislation which was not now foreseen.

The responses from the American participants manifested a lack of concern. In the long term capital would flow where it was needed and wanted and U.S. capital would find other outlets if rejected in Canada. In other countries U.S. capital had experienced many difficulties ranging from excess taxation to expropriation. On the whole the U.S. trade philosophy tended to prefer the freer flow of capital, but there was an understanding in the U.S. of the reasons for this legislation in Canada, particularly now as foreign capital was beginning to flow into the United States. A Canadian participant said that the legislation had not been meant to hinder the flow of capital. Canada has in fact required more investment in resource development and other fields. Another Canadian concluded the discussion by pointing out that there had been side benefits as a result of the F.I.R.A. legislation. American subsidiaries had become sensitive to Canadian interests and were now better corporate citizens.

CONTROLS ON TRADE WITH CUBA

The American participant who opened this brief discussion began by applauding the statement of the Canadian Prime Minister upon his arrival in Cuba emphasizing Canada's disapprobation of the deployment of Cuban troops in Angola. A Canadian countered by describing the concern aroused in Canada when U.S. laws restricting trade with Cuba led American parent firms to cancel contracts made by their Canadian subsidiaries. American sensitiveness on the subject of Angola was demonstrated by the welcome to the assurances given by Canadian participants that neither Canadian trade nor Canadian aid programmes were in any way assisting the Angolan airlift. An American explained that before this crisis arose the U.S. had been moving in the direction of a more liberal trade policy with Cuba, a shift which had developed alongside of a renewed U.S. interest in the organization of American states. Current American concerns about the participation of Cubans in the Angolan conflict were elaborated as well as the implications of the growth of Russian influence in Africa in terms of the threat to the United States.

CANADIAN CULTURAL LEGISLATION AND REGULATIONS

The most extensive discussion of the day centred on this topic. Differing Canadian viewpoints emerged on this issue during the discussion. It was introduced by a Canadian participant, who dealt first with the T.V. cable deletion regulations, explaining that concern in Canada on this subject arose from our desire to protect ourselves from cultural domination. The action which was viewed by some in the U.S. as piracy could be viewed in Canada as protection against an invasion of Canadian air space. American programmes were licensed in the U.S. for American stations only. He acknowledged, however, that there were Canadians who shared American indignation about the deletion of commercials from U.S. programmes relayed by cable. He stressed that the Canadian regulations were needed to support the integrity of the Canadian broadcasting system.

The first American respondent began by quoting an editorial in the Toronto *Globe and Mail* which condemned the deletion of advertising from U.S. signals in emotive terms. It was a "shabby, sleazy" action. He quoted other instances of objections by prominent Canadians. He found it hard to believe that the concern was entirely cultural. He saw it as Canadian companies taking commercial advantage of a property which was not theirs. While retaliation was a repugnant prospect he foresaw the possibility of jamming of signals by U.S. border broadcasting companies or the withdrawal of the privileges accorded to

Canadian networks of purchasing pre-screening rights to American series programmes. Another U.S. participant asserted that jamming was an anathema to the freedom of speech and therefore was an unpalatable solution. It would be difficult to carry out politically. He felt it was hypocritical at least to delete the commercial but allow the programme to be broadcast.

It was pointed out in the response from the Canadian participants that the property right to Canadian audiences is in the purview of the Canadian licensing authority. The present regulations are part of their protection of Canadian rights. Canadians can receive 60% of American programming directly without use of cable. The international jurisprudence regarding broadcasting had established that the signal was not owned by the broadcasting station once it was in the air. Copyright laws did not apply unless the broadcast were relayed in a public place. There was no property in these commercials in Canadian law. This was established long before the current dispute. It was further suggested that producers of U.S. series programmes would undoubtedly resist any attempt to interfere with their sales to Canada which constituted the largest part of their secondary market and represents a large proportion of the profits returned on production.

An American participant said it had been unfortunate in his view that some U.S. border stations had built their business in areas where they had become dependent on Canadian audiences. However, this was a dispute that should not be allowed to remain unsettled. Another U.S. participant noted how rapidly the situation was moving. A year ago it has been thought impossible that the FCC would give its approval to jam broadcasts to Canada. Now, jamming was being actively promoted. A Canadian replied that technically jamming would be possible, but this was an unlikely solution and discussions were now underway at the official level to seek an understanding and solution of this issue. Another Canadian pointed out that the development of program reception through satellite was going ahead very quickly and might overtake the present cable problem.

A U.S. participant suggested that there should be some action from Canadian authorities as evidence of good faith, that the rules of deletion should be suspended while the percentage of the Canadians viewing U.S. programmes carried by cable was established. It would be easier, he added, to work toward a resolution if the mandatory aspect of the regulations were withdrawn. Canadian participants elaborated on the need to bring the advertising revenue back to Canada where it would assist in the development of Canadian talent and facilities.

The discussions of the Income Tax regulations amended by Bill C-58 as they affected advertising in U.S. media formed an addendum to the cable deletion discussion. A Canadian participant explained the intention of the amendments as they related to Time and Readers Digest and television advertising. The U.S. participants accepted that Time and Readers Digest was a Canadian problem which was not a concern in the United States. A Canadian suggested that there was no assurance that the advertising money spent by Canadians in the U.S. which was affected by the income tax changes would necessarily be spent instead in Canada. There were indications that U.S. stations would reduce their rates to Canadian advertisers.

In bringing into perspective the whole subject of the irritations which had been engendered by the Canadian regulations regarding cable deletion and the withdrawal of the tax concessions, an American participant said that it would in his opinion be most unfortunate if the dispute over them was allowed to exacerbate other border problems. It was largely a matter of perception. If the U.S. thought that Canadians are anti-American it would affect perceptions of other border issues. The final comment from the Canadian side was first that the tax bill was about to become law and was not likely to be altered. On the deletion problem discussion was still possible and was in fact now under way. It was suggested that these discussions should be encouraged and that an effort should be made to resolve the problem. It was important that minor infections should not spread to affect the whole relationship.

EXTENSION TO CANADA OF U.S. RESTRICTIONS ON POLITICAL CONTRIBUTIONS

Canadian objections to the extension by some U.S. parent companies of the U.S. law prohibiting corporate contributions to political parties were explained. In Canada such contributions were entirely legal and in fact it was stated that 25% of election contributions come from corporations. It was recognized that since Watergate, U.S. parent firms are 'gun-shy'.

MULTI-LATERAL TRADE NEGOTIATIONS

The afternoon session concluded with a brief discussion of these negotiations introduced by a Canadian participant who felt that the most important mutual concerns related to sector negotiations. Commodity agreements were acceptable if not one-sided in favour of the producers. Canada was also concerned that the objectives of third world countries be accommodated. There was a sense of urgency about this round of talks. They would set the future of trading patterns until well into the 1980's. An American participant responded that it would benefit all countries if trade barriers could be lowered. He agreed that there was an urgent need to complete these talks. He was less enthusiastic about special preferences for underdeveloped countries. They might create road-blocks to future negotiations to lower trade barriers. A final comment from a Canadian participant was that Canada's concern in the GATT talks arose from our dependence on exports; fifty percent of our manufactured goods and forty percent of our agricultural products were exported.

COMMITTEE III

Committee III had three major items on its agenda—energy issues; agricultural questions; and the Seventh Special Session of the United Nations. Energy was clearly the main preoccupation of the delegates on both sides who participated in Committee III, and about 5/6 of the time at the disposal of the Committee was committed to a discussion of energy related issues.

ENERGY

Although some time was spent discussing past developments relating to oil and gas exports from Canada and the

price of these exports, it was evident that for the delegates the major choice facing the two countries at this time was whether Prudhoe Bay gas would be brought south by the El Paso route through Alaska and down the west coast of the U.S. by liquid natural gas (LNG) tanker or by pipeline down the Mackenzie Valley.

The Canadian delegates urged delaying a decision until the regulatory bodies on both sides of the border—the National Energy Board in Canada and the Federal Power Commission in the U.S.—had reported on the alternative proposals and the conflicting claims regarding price and supply of the three proposals being considered by these two bodies, namely, the El Paso route, the Arctic Gas Line and the Foothills Line. The Canadians stressed that large sums of money were involved; there were conflicting claims as to savings which might be secured by using one route as against another amounting in their aggregate to differences of over a half a billion dollars a year. In view of the enormous expense of energy development and transmission in the next decade, they argued that it was only prudent to wait until expert bodies capable of assessing contested figures had reached their conclusions. The Canadians felt that a delay of fifteen months would give the regulatory bodies and the respective governments time to reach well-informed decisions.

On the U.S. side, it was clear that the debate between the protagonists of the El Paso route and the advocates of the Mackenzie Valley route involves an assessment of Canadian intentions. Therefore, American participants had a number of questions. They wished to know whether Canadians and the Canadian Government in particular were actually interested in the construction of a jointly owned pipeline. They asked whether Americans could rely on the Canadian authorities not to change the basis for any agreement which might be reached and cited at various times, to explain their concern, the increases in price and the cut-backs in deliveries of gas to the American North West and recent action by the Government of Saskatchewan regarding the possibility of nationalizing the potash industry. They also wanted to know whether the actions of provincial governments could be controlled by the federal government. Finally, they were interested to have information on the timetable for Canadian decision-making on issues relating to a gas line from Prudhoe Bay across Canada to the United States.

Several Americans interested in the Arctic Gas Line said that they needed "signals" from the Canadian side as to Canadian intentions. In this connection there were a couple of references in the Committee to uncertainty about Canada's intentions arising out of statements made in the course of the Prime Minister's recent visits to Mexico and Cuba. From all these questions, it was apparent that there is a mood of uncertainty in the U.S. Congress on this question.

As a result of this situation, much of the discussion on past developments assumed importance as a guide to Canadian reliability and future intentions. The Canadian side reported on the rationale for the export levy on oil. This exposition went unchallenged by the United States side, other than for a passing remark by one American participant that Canada had in the 1960s received a price higher for its oil exported to the United States than that then prevailing in world markets. A Canadian also expressed a willingness to consider limited swapping arrangements, but this offer was not discussed.

American participants expressed concern that the National Energy Board had changed its regulations in mid-contract to justify Canadian cut-backs. The Canadians denied this impression, pointing out that the early calculations made by the National Energy Board on which exports had been approved, had been based on figures supplied in the main by Canadian subsidiaries of American oil companies and had proven inaccurate in that new discoveries had not materialized at the expected rate. With rising consumption, the reserve position had deteriorated substantially, and accordingly the National Energy Board had been obliged by its regulations, which had not changed, to reassess its calculations. Each side held to its position on this issue. American participants noted that the export prices for gas had risen proportionately more than the domestic price. The Canadians defended this position by pointing out that the present Canadian export price was still not as high as some prices for gas sold across state lines in the United States, and that the original export price for gas in the North West had been substantially below the Canadian internal price.

The shortfall of gas production in British Columbia and the consequent cut-back in exports to the U.S. North West was the subject of considerable discussion. U.S. participants wondered why in the circumstances there had been no pro-rating of the shortfall. Canadian participants claimed that the political situation in British Columbia had been special. They expected there might be a more cooperative approach in future and they did not expect the same policy to be applied to gas exports east of British Columbia. Although they were not in a position to make promises, they suggested that there was more likelihood of these gas exports being maintained—as distinct from oil exports—since contracts were long term and alternative sources of supply were not readily available. For these reasons, they believed that many Canadians were prepared for some form of prorating should the gas supply situation in Canada deteriorate.

In summing up this section of the discussion, the Canadians pointed out that there was no prospect of an increase of gas exports to the United States, that oil had already been cut back and that further cut-backs could be expected. The price for oil exports would be close to that prevailing on the world market, but Canada would not take any action itself to drive up the price of oil.

There was considerable discussion of the proposed treaty on pipelines, which had only a couple of days before been initialled by officials. Canadian participants explained why the proposed treaty did not require provincial approval of the text. However, the federal government would be prepared, if United States interests decided to proceed with the pipeline across Canada between Alaska and the states lying south of Canada, to seek written agreement from any province through which the pipeline passed to be confirmed in a protocol to be attached to the treaty. Apart from the legal obligations that this would create, Canadians also pointed out that there would be a mutuality of

interest. There were several pipelines crossing the United States to Canada and the continued through-flow of this oil was essential for daily life in Canada. They also felt that Canadian concerns would be different from that on oil exports because a line down the Mackenzie Valley would be carrying American oil rather than exporting Canadian oil. However, the Canadians recognized that the Americans had a concern and one Canadian suggested that it would be appropriate for the United States to seek an advance commitment from the federal government to use its powers of disallowance if a province tried to revise its treatment of a pipeline.

AGRICULTURE

A Canadian participant spoke generally on agricultural relations between the two countries, which he described as having recently returned to the cordiality which had been the pattern most of the time. It should be noted, however, that the two governments were following somewhat different philosophies, with Canada favouring a degree of state involvement in order to maintain a stable market, whereas the United States was stressing free market mechanisms. This difference in approach was at the root of some difficulties in the egg market. Canada was trying to establish an equitable market, and this required some control of imports. The GATT decision had established the legality of the Canadian approach, but the size of the quota was still in dispute. Fortunately, the two countries had settled their differences in the meat and cattle trade, which should benefit producers in both countries. There was a new problem represented by the identification of blue tongue carried by cattle in the United States; this could lead to new controls on cattle exports to Canada. The Canadian spokesman also raised a special problem for Canada, namely, a doubling of the tariff applied to potatoes exported from Canada to the United States beyond a specified quota.

The American chairman expressed agreement with the Canadian survey, observing that there was a relatively good relationship in this field.

NEW ECONOMIC ORDER

An American participant opened discussion in this item by pointing out the role of some Congressmen in pressing for a new approach by the United States to the opportunities offered by the Seventh Special Session of the General Assembly. They had found a willing response in the Secretary of State. The approach adopted by the United States at the Seventh Special Session had achieved an important break-through. A Canadian delegate observed that the Seventh Special Session represented an important turning point, and he paid tribute to the role of advocate played by the United States Congressional delegation attending the Special Session. He was happy to see this move toward cooperation rather than confrontation at the United Nations. The New Economic Order was a process, not a single step, and he looked forward to cooperation between interested members of Parliament and Congressmen in pressing for the necessary public support in both countries.

These introductory statements aroused some sceptical comment from other delegates, who questioned whether a "turn-around" had actually occurred as a result of the Special Session. There was agreement, however, that this was a field where further cooperation between interested members of the two legislatures would be beneficial.

PLENARY MEETING

One of the American Co-Chairmen, Representative Morgan, opened the plenary session by commending the Canadian Senate Committee on Foreign Affairs for its first report on Canada-United States relations. He drew particular attention to the recommendations regarding the need for improved Canadian contacts with Congress and emphasized the importance of the Canada-U.S. Inter-Parliamentary Group meeting as a contact point between the two countries.

The principal Canadian spokesman at the plenary presented a broad picture, couched initially in historical terms, of Canada's "obstinate decision" not to be part of the United States. There have always been many points of common interest and shared viewpoints between the two countries, and this remained true. There were also difficulties, however, of which probably the foremost today was related to the Canadian perception of the danger of U.S. cultural penetration in all its many forms. It seemed possible, in view of the emphasis which the American constitution and people put on freedom of expression, that there could be a serious misunderstanding of Canadian measures taken with the view to protecting Canada's cultural identity. Other problem areas noted related to the extraterritorial application of U.S. legislation in Canada, the trade ramifications of regional incentives or the imbalance of auto pact trade and employment patterns. This speaker noted the dangerous possibility that many of the bilateral problems or irritants could together be perceived in their *ensemble* by Americans as a manifestation of Canadian nationalism. He concluded that he hoped the present relationship, which it was said had succeeded the earlier and "special" relationship, was still something above and beyond a "mature" relationship between two countries.

A number of comments related to the Prime Minister's trip to Cuba which was taking place concurrently. Several American delegates, particularly those from Florida, spoke of the danger of public misunderstanding which such a visit could arouse. They suggested that it could be dangerous to the relationship if such a visit were to be perceived in the United States as a sign of an overall change in the direction of Canadian policy toward the United States.

Subsequent speakers brought out some of the following points:

—the fact that each country is each other's best trading partner and that their interdependence acts as a salutory constraining factor in policy decisions

—the desirability of more extensive information about Canada being provided in the United States' education system

—the need for increased awareness of Canadian concerns in the United States as a prerequisite for better Canadian-American relations

—the advisability of developing better machinery and techniques for contact including closer consultation procedures

—the desirability from time to time of joint studies of specific issues to supplement the annual meetings of the Inter-Parliamentary Group

—the useful contact between the delegations of the two countries at multilateral conferences

—the importance of the disparity of power between the two countries in explaining the Canadian preoccupation with its identity

—the fact that Canadian relations would inevitably continue to be close with the United States. There was no realistic alternative.

APPENDIX "B"

(*See p. 2223*)

THE ESTIMATES

REPORT OF STANDING SENATE COMMITTEE ON NATIONAL FINANCE ON SUPPLEMENTARY ESTIMATES (A)

Thursday, June 17, 1976

The Standing Senate Committee on National Finance to which the Supplementary Estimates (A) laid before Parliament for the fiscal year ending 31st of March 1977 were referred, has in obedience to the order of reference of Tuesday, June 8, 1976 examined the said Estimates and reports as follows:

1. In obedience to the foregoing the Committee made an examination of the Supplementary Estimates (A) and heard evidence from the Honourable Jean Chrétien, President of the Treasury Board, Mr. L. Francis, Parliamentary Secretary to the President of the Treasury Board, Mr. M. J. A. Lafontaine, Deputy Secretary, Administrative Policy Branch of the Treasury Board, Mr. Guy Cousineau, Special Adviser for Loto Canada Inc. to the President of the Treasury Board and Mr. Bruce MacDonald, Deputy Secretary, Program Branch of the Treasury Board.

2. Supplementary Estimates (A) total $5 million in respect of:

(a) The purchase for $1 of the shares of Loto Canada Inc.;

(b) Working capital advance not exceeding $5 million to the said Loto Canada Inc.

3. Loto Canada Inc. will be incorporated under the *Canada Corporation Act* and all the shares therein will be held by the Government of Canada.

4. Loto Canada Inc. will conduct a national lottery along the lines of the Olympic Lottery, with a first draw following the final draw in the Olympic Lottery which is to take place on August 29th, 1976.

5. Mr. G. Cousineau, formerly Chairman of the Unemployment Insurance Commission, will be Chairman of the Board of Directors of Loto Canada and he has indicated to the Committee that while the lottery will be operated on a similar basis to the Olympic Lottery, there will be a specific review of the distribution system and the amount of commission paid.

6. The net revenues of Loto Canada Inc. will be credited to the National Lottery Account in the accounts of Canada and the monies paid to the Receiver General of Canada. The Receiver General is authorized to divide the net revenues as follows:

(a) in the current fiscal year up to 5% for Physical Fitness, Amateur Sports and Recreation programmes in accordance with regulations to be established;

(b) until the 31st day of December, 1979, up to 12½% to the government of each province in the proportion to the number of tickets sold by Loto Canada Inc. in each province;

(c) up to 82½% to Régie des installations olympiques to assist in the financing of the deficit of the 1976 Olympic Games and the XI Commonwealth Games Canada (1978) Foundation to assist in the financing of the 1978 Commonwealth Games.

7. The Committee noted that the payments of the 82½% and the 12½% are subject to the 5% to be directed to Physical Fitness, Amateur Sport and Recreation programmes. However, the 82½% and 12½% are set for three years while the 5% is set for the current fiscal year. Under the terms of the Supplementary Estimates, it would therefore be possible for the government to vary the 82½% and 12½% by varying the 5%. The witnesses assured the Committee that if this were done, it would require an item in the Estimates.

8. The Minister stated that it was his intention that the Annual Report of Loto Canada Inc. be tabled in the Senate, and that the 5% of the net revenues to be directed to physical Fitness, Amateur Sport and Recreation programmes will be shown each year in the estimates of the Department of Health and Welfare. The witnesses assured the Committee that the regulations to be established in respect of Loto Canada Inc. will restrict the number of draws to thirteen, being four draws per year and ending with the last draw prior to December 31st, 1979. Based on the experience of the Olympic Lottery, it is estimated that the gross ticket sales would be approximately $700,000,000 and if this revenue is realized, the amount available for the deficit of the 1976 Olympic Games and the financing of the 1978 Commonwealth Games will be approxiamtely $300,-000,000. The witnesses estimated that the present deficit of the Olympic Games is in the neighbourhood of $900,000,000.

9. The witnesses assured the Committee that following the 13th draw, no further draws will take place unless the regulations are changed by the government. The Minister indicated to the Committee that it is his intention to bring the matter to Parliament prior to the change of those regulations.

10. The Committee expressed its concern to the Minister and his officials about proceeding to establish Loto Canada Inc. and a national Canadian lottery by way of a Supplementary Estimate. It has been the view of this Committee for some time that Supplementary Estimates should not be used for this purpose and therefore Loto Canada Inc. should have been established by the introduction of a Bill in Parliament. The Minister explained that the Olympic Lottery is to come to an end on August 29th, 1976. Officials of the Olympic Lottery and COJO were unable to obtain the co-operation of certain other provinces in Canada to continue the Olympic Lottery beyond August 1976 on its present basis, whereby the bulk of the net revenues goes to finance the Olympic Games. The Federal Government decided to continue the lottery for three years to assist in the financing of the deficit of the Games. So as not to lose momentum and facing the adjournment of Parliament, the Government sought to bring in legislation in the other place with agreement from the opposition parties that it would be dealt with in an expeditious manner. The Government was unable to achieve such an agreement and while it could have proceeded to incoporate and fund Loto Canada Inc., without reference to Parliament (as has been done in the case of other crown corporations, e.g. Atomic

Energy), the Government decided to proceed by way of Supplementary Estimates. This meant that the matter was referred to the Miscellaneous Estimates Committee in the other place and to the Standing Senate Committee on National Finance in the Senate, whose report is subject to debate in the Senate. While your Committee is concerned with this method of procedure, in these particular circumstances it feels there is justification although this should not be viewed as a precedent for proceeding in this way in the future.

11. Questions were asked about the consultations that have been undertaken by the Federal Government with the Provincial Governments in respect to the establishment of Loto Canada Inc. The witnesses indicated that a very limited consultation had taken place but that it is expected that detailed consultations on the continuation of Loto Canada Inc. after December 31st, 1979 will take place at a Federal—Provincial Meeting on the subject in September, 1976. Witnesses were not forthcoming about the conditions of agreements with the provinces that will be required to effectively continue a Canadian lottery with the co-operation of the provinces.

12. The witnesses assured the Committee that while some three years ago the Federal Government had amended the Criminal Code to permit provinces to conduct their own lotteries, this did not mean that the Federal Government had vacated the field. The witnesses were of the opinion that the Federal Government had the power to conduct a national lottery and to sell the tickets throughout Canada without the consent of the provinces.

13. While the amount to be paid from the net revenues of Loto Canada Inc. to assist in the financing of the deficit of the 1976 Olympic Games is to bear no relationship to the actual deficit suffered, nevertheless the contribution is to be made from revenues to be received by the Federal Government from the people of Canada without the Federal Government having had any control over the expenditures that resulted in the deficit. The Committee is in agreement that the Federal Government should give such assistance to the 1976 Olympic Games. However, the Committee cautions the Federal Government that it should not use revenues derived from the people of Canada to cover provincial or municipal expenditures without having had adequate controls imposed on them by the Federal Government.

Respectfully submitted,

D. D. Everett,
Chairman.

THE SENATE

Monday, June 21, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

NATIONAL CAPITAL REGION

SPECIAL JOINT COMMITTEE—CHANGE IN COMMONS MEMBERSHIP

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to acquaint the Senate that the name of Mr. Smith (Churchill) had been substituted for that of Mr. La Salle, and the name of Mr. La Salle had been substituted for that of Mr. Oberle, on the list of members appointed to serve on the Special Joint Committee on the National Capital Region.

INCOME TAX CONVENTIONS BILL

COMMONS AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-32, to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel, and acquainting the Senate that they have passed the bill with the following amendments to which they desire the concurrence of the Senate:

1. *Page 3:* Strike out lines 41 and 42 and substitute therefor the following:

"of the Governor in Council published, with the text of such supplementary agreement, in the *Canada Gazette*."

2. *Page 4:* Strike out lines 4 to 16 and substitute therefor the following:

"(2) An order referred to in subsection (1) shall come into force on the 30th sitting day after it has been laid before Parliament pursuant to that subsection unless before the 20th sitting day after the order has been laid before Parliament a motion for the consideration of either House, to the effect that the order be revoked, signed by not less than fifty members of the House of Commons in the case of a motion for the consideration of that House and by not less than twenty members of the Senate in the case of a motion for the consideration of the Senate, is filed with the Speaker of the appropriate House.

(3) Where a motion for the consideration of the House of Commons or Senate is filed as provided in subsection (2) with respect to a particular order referred to in subsection (1), that House shall, not later than the sixth sitting day of that House following the filing of the motion, in accordance with the rules of that House, unless a motion to the like effect has earlier been taken up and considered in the other House, take up and consider the motion.

(4) A motion taken up and considered in accordance with subsection (3) shall be debated without interruption for not more than five hours and, on the conclusion of such debate or at the expiry of the fifth such hour, the Speaker of the House of Commons or the Senate, as the case may be, shall forthwith put, without further debate or amendment, every question necessary for the disposal of the motion.

(5) If a motion taken up and considered in accordance with subsection (3) is adopted, with or without amendments, a message shall be sent from the House adopting the motion informing the other House that the motion has been so adopted and requesting that the motion be concurred in by that other House.

(6) Within the first fifteen days next after receipt by it of a request pursuant to subsection (5) that the House receiving the request is sitting, that House shall, in accordance with the Rules thereof, take up and consider the motion that is the subject of the request and all questions in connection therewith shall be debated without interruption for not more than five hours and, on the conclusion of such debate or at the expiry of the fifth such hour, the Speaker of the House of Commons or the Senate, as the case may be, shall forthwith put, without further debate or amendment, every question necessary to determine whether or not the motion in question is concurred in.

(7) Where a motion taken up and considered in accordance with this section is adopted by the House in which it was introduced and is concurred in by the other House, the particular order to which the motion relates shall stand revoked but without prejudice to the making of a further order of a like nature to implement a subsequent supplementary agreement between the Government of Canada and the Government of the French Republic, Belgium or the State of Israel, as the case may be.

(8) Where a motion taken up and considered in accordance with this section is not adopted by the House in which it was introduced or is adopted, with or without amendments, by that House but is not concurred in by the other House, the particular order to which the motion relates comes into force immediately upon the failure to adopt the motion or concur therein, as the case may be.

(9) For the purpose of subsection (2), a day on which either House of Parliament sits shall be deemed to be a sitting day."

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

Senator Langlois: I move that these amendments be taken into consideration at the next sitting of the Senate.

Motion agreed to.

DOCUMENTS TABLED

Senator Langlois tabled:

Report of expenditures and administration in connection with the Unemployment Assistance Act for the fiscal year ended March 31, 1975, pursuant to section 8 of the said Act, Chapter U-1, R.S.C., 1970.

Report of the Unemployment Insurance Commission for the year ended December 31, 1975, pursuant to section 130(2) of the Unemployment Insurance Act, 1971, Chapter 48, Statutes of Canada, 1970-71-72.

Report of the Commission of Inquiry into the Marketing of Beef and Veal, dated April 13, 1976 (Mr. Maxwell W. Mackenzie, Chairman), established on the recommendation of the Prime Minister of Canada, pursuant to Order in Council P.C. 1975-1, dated January 6, 1975.

ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until tomorrow, June 22, at 8 o'clock in the evening.

Motion agreed to.

● (2010)

TRANSPORTATION

DISRUPTION OF AIRLINE SERVICES IN CANADA—QUESTION

Senator Flynn: Honourable senators, having been able to fly here from Montreal tonight on a regular flight of Air Canada, it occurred to me to wonder, since so many senators are absent, whether the deputy leader could report on the situation concerning air travel in Canada tonight.

Senator Langlois: I am afraid I know little more than my honourable friend, having spent the whole afternoon driving from Quebec City to Ottawa in order to be here on time tonight—and I might say that I arrived just a few minutes before the sitting began. I know what was broadcast on the radio this afternoon, particularly the statement of the Honourable Mr. Chrétien to the effect that court actions will be taken against those persisting in an illegal strike. I am afraid I have nothing more to add. I will try to keep abreast of developments, and as soon as I have any information I will pass it on to honourable senators.

Senator Flynn: Is the absence of the Leader of the Government in the Senate caused by the strike?

Senator Langlois: The leader is on his way to Ottawa now. I understand he has been delayed because the aircraft he is on has been picking up other honourable senators and members of the other house. He is expected in Ottawa later this evening.

Senator Flynn: I must say he is most unlucky with these flights.

LABOUR

DEFIANCE BY UNIONS OF COURT ORDERS—QUESTIONS

Senator Cameron: Honourable senators, apropos the current illegal strike of air traffic controllers, I should like to ask the Deputy Leader of the Government the following questions:

1. In how many instances in the past five years have labour unions defied court orders?

2. On previous occasions where such defiance took place, what disciplinary action, if any, was taken against the participants in illegal strikes?

3. Is the government contemplating action designed to force the strikers back to work, and, if so, by what deadline?

Senator Langlois: I shall have to take your question as notice, Senator Cameron. In doing so, am I correct in understanding that it relates not only to air pilots and air controllers but to other groups of public servants as well?

Senator Cameron: Yes.

Senator Croll: Honourable senators, as I understood Senator Cameron's question, it concerned illegal strikes in Canada regardless of where they took place and regardless of what unions were involved. In other words, it was not directed only at public servants.

Senator Cameron: The point of the question is as to where court orders have been defied, and that applies to any illegal strike.

Senator Croll: That is what I thought.

Senator Flynn: The point is that the strikes are in defiance of court orders.

Senator Croll: Wherever that takes place.

Senator Flynn: In my opinion, that is a good question.

Senator Langlois: It is a good question, and I will do everything in my power to obtain the statistics as soon as possible.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A)—DEBATE ADJOURNED

On the Order:

Consideration of the report of the Standing Senate Committee on National Finance on the Supplementary Estimates (A) laid before Parliament for the fiscal year ending the 31st March, 1977—(*Honourable Senator Everett*).

Hon. Chesley W. Carter: Honourable senators, on behalf of Senator Everett, I move the adoption of the report.

As can be seen from page 2234 of the *Debates of the Senate*, where it appears as an appendix, the report itself is quite detailed and requires very little explanation. However, in moving its adoption, I should like to mention that the President of the Treasury Board, the Honourable Jean Chrétien, along with his parliamentary secretary, Mr. Lloyd Francis, appeared before the committee accompanied by Treasury Board officials in the persons of Mr. M. J. A. Lafontaine, Deputy Secretary, Administrative Policy

Branch, and Mr. Bruce MacDonald, Deputy Secretary, Program Branch, as well as Mr. Guy Cousineau, who will be the chairman of the board of directors of Loto Canada.

As the report indicates, these supplementary estimates total $5 million and seek authority to provide for the purchase of $1 shares of Loto Canada Incorporated and for a working capital advance, not exceeding $5 million, to the said company on terms and conditions approved by the Governor in Council.

The net revenues of Loto Canada Incorporated will be credited to the national lottery account in the accounts of Canada, and the moneys paid to the Receiver General of Canada. The Receiver General is authorized to divide the net revenues as follows:

(a) in the current fiscal year up to 5 per cent for physical fitness, amateur sports and recreation programs, in accordance with regulations to be established;

(b) until the 31st day of December 1979, up to 12½ per cent to the government of each province in proportion to the number of tickets sold by Loto Canada Incorporated in each province; and up to 82½ per cent towards the financing of the deficit of the 1976 Olympic Games and assisting in the financing of the 1978 Commonwealth Games.

One aspect of supplementary estimates (A) which concerns your committee is the establishment of a national lottery by way of supplementary estimates, particularly as it has been the view of your committee for some time that supplementary estimates should not be used for this purpose, and, therefore, that Loto Canada Incorporated should have been established by the passing of a bill by Parliament. However, it was explained by the minister that it had not been possible to continue the Olympic Lottery on its present basis beyond August 1976, because of lack of cooperation of certain provinces, nor had the government been able to reach an agreement with the opposition parties in the other place regarding the passing of the requisite legislation in an expeditious manner. In view of the limited time frame, therefore, the government decided to proceed by way of supplementary estimates. Though your committee is concerned about this procedure, in these particular circumstances we feel there is justification but point out that this procedure should not be viewed as a precedent for the future.

● (2020)

I should like also to call attention to three other points contained in the report. First, your committee was assured by the witnesses that regulations will be established in respect of Loto Canada Incorporated, which will restrict the number of draws to thirteen ending with the last draw prior to December 31, 1979, and that no further draws will take place unless the regulations are changed by the government. The President of the Treasury Board stated that it was his intention to bring the matter before Parliament prior to changing these regulations.

Secondly, it was brought out during the hearing that very limited consultation had taken place between the federal and the provincial governments in respect to the establishment of Loto Canada Incorporated, but that it is expected detailed consultation will take place at a federal-provincial meeting on this subject in September 1976.

[Senator Carter.]

Thirdly, your committee observes that the revenues received from Loto Canada Incorporated will be a contribution to help defray a deficit over which the federal government had no control and, though your committee agrees that the federal government should give this assistance to the 1976 Olympic Games, it cautions the government that it should not use revenues derived from the people of Canada to cover provincial or municipal expenditures without adequate controls imposed on them by the federal government.

Honourable senators, Loto Canada is in effect an extension of the Olympic Lottery which expires at the end of August of this year. The Olympic Lottery has been successful beyond all expectations, having produced a revenue of some $250 million as compared with an estimated revenue of $90 million. If Loto Canada achieves a similar success, it is estimated that it will contribute some $300 million towards the Olympic Games deficit of $900 million. I therefore recommend that the report be adopted.

On motion of Senator Flynn, debate adjourned.

CONSUMER CREDIT AND COST OF LIVING

ACTION TAKEN TO IMPLEMENT PRINCIPAL RECOMMENDATIONS OF FIFTH REPORT OF SPECIAL JOINT COMMITTEE—INQUIRY ANSWERED

Senator Croll inquired of the government, pursuant to notice:

What specific action, if any, has been taken in implementation of each of the following principal recommendations contained in the Fifth Report of the Special Joint Committee of the Senate and House of Commons on Consumer Credit and Cost of Living, tabled in the Senate February 16, 1967?

(a) That every person, firm or corporation, including every chartered bank, carrying on the business of extending consumer credit, shall be required by law to disclose to the consumer the total cost of that credit, expressed both as a lump sum and in terms of simple annual interest.

(b) That all advertisements which offer credit or lending should be required to set out in annual percentage rates as well as in dollars and cents the added cost to the consumer for the use of the money.

(c) That the federal government make available, through the regular banking system, guaranteed consumer loans under specified conditions to all with annual family incomes of $4,000 or less. The loans would be repayable over an extended period, and would bear a low rate of interest. They would be made only for provident and productive purposes related to the preservation of home and family. The maximum size of such a loan would be $1,500.

(d) That the Parliament of Canada extend the protection accorded to borrowers under the Small Loans Act so as to include loans up to $5,000 rather than loans up to $1,500, with appropriate interest ceilings.

(e) Parliament has expressed, in the Combines Investigation Act, its desire to encourage the regula-

tion of industry by free competition. However, the Act does not at present apply generally in respect of service industries. The committee recommends that the scope of the legislation be enlarged, so as to ensure that such free competition will obtain, at least in the sales finance industry, by providing for the regulation of so-called "captive sales financing"; that is, of the operations in that field of manufacturers, distributors, dealers and others not principally engaged in sales finance.

(f) Consumers are sometimes compelled to pay for faulty or defective goods, or even for goods they never receive. This is particularly hard on the consumer when, as occasionally happens, the purchaser of his obligation to pay has no knowledge of the original transaction. To prevent situations of that kind, we recommend that every bill or note given in connection with a retail credit transaction be required to be so marked on its face.

(g) That a cooling-off period of three days should be allowed for the reconsideration by the buyer of purchases made on credit, off store premises, during which the purchaser may without penalty return the goods and recover back any monies paid by him.

(h) An appropriate government agency should prepare and distribute to dealers and retailers a standard form of agreement applicable to all sales of goods on credit. A copy of the agreement should be given to every person who assumes an obligation under it.

(i) Every retail credit sale should contain a clause giving the purchaser the right to prepay before the normal term without penalty and with a proportionate rebate of prepaid charges.

(j) That collection agencies be prohibited from obtaining wage assignments from debtors and that wage assignments in favor of credit grantors be permitted only if the assignment is contained in a separate self-contained document.

(k)(1) We urge the implementation in all parts of Canada of the new Part X of the federal Bankruptcy Act, which provides a procedure for the orderly payment of debts under court supervision. Part X may be brought into force in any province on the request of its Lieutenant Governor in Council.

(k)(2) Your committee fully endorses the principle embodied in existing legislation providing relief from unconscionable transactions, and recommends its extension to all parts of Canada.

(l) Information and education—sometimes called money management budget advice and counselling—would not solve all consumer credit problems, but we believe that their institution would constitute a step in the right direction. Objective and authoritative general information would be prepared and widely distributed. This would explain in clear and understandable language what all potential credit-buyers should know, including:

(1) Interest costs, with tables in both percentage and dollar terms, particularly illustrating the effect on costs of refinancing and consolidation of debts.

(2) The kinds of outlays for which it is not unreasonable even for lower-income individuals to incur debts.

(3) The minimum net or disposable income which safely permits credit buying, and for those above that level, what percentage can reasonably be pledged for future payments.

(4) The nature and extent of the protection and assistance available to consumers under existing law.

(m) A minority of Canadians require personal financial advice and counselling on an individual basis. Consideration might be given to making government grants to family agencies and to credit unions and caisses populaires to enable them to employ for this purpose persons with a specialized knowledge of financial matters.

(n) We believe that the financing of used cars has become a social problem. We therefore recommend, in the public interest, that:

(1) In order that prospective purchasers may ascertain the history of used cars before committing themselves to purchase, a central registry of all cars should be set up in each province, with the same number associated with a car throughout its lifetime.

(2) A maximum rate that may be charged for financing used cars should be fixed by law. This would of course include all charges.

(o) Although we have not decided on any specific annual interest rate in respect of credit transactions which would in all circumstances be considered exorbitant, it would appear to be in the public interest to fix some such upper limit. Because of the tremendous increase in recent years in the use of open-end accounts of various types—sometimes called revolving accounts, cyclical accounts, easy-payment or budget accounts—with no statement to the customer of the annual interest rate at the time the purchase is made, and with a minimum effective annual interest rate of some 18 per cent, but no effective ceiling, we urge that immediate consideration be given to this important matter.

(p) In order to work towards uniformity in legislation, and to ensure that legislation is developed to complement appropriate federal legislation, and to eliminate abuses and loopholes as far as possible, we recommend that a continuing federal-provincial committee on consumer credit be set up on the technical level.

Senator Langlois: Answered.

(a) It is the intention of the Minister of Consumer and Corporate Affairs to introduce at an early date a Borrowers' and Depositors' Protection Act. It is anticipated that provisions in this legislation will deal with this question.

(b) Same as (a).

(c) The entire question of government guaranteed loans to low-income consumers is under consideration within the Consumer Research Branch of the Department of Consumer and Corporate Affairs.

(d) See answer to (a).

(e) The most important change effected by Bill C-2, was to widen the scope of the Combines Investigation Act to apply to all services, including the services provided by the sales finance industry. Apart from changes in the law requiring disclosure of the effective rate of interest, no other regulation of captive sales financing, has been undertaken.

(f) This recommendation has been fulfilled in two ways: In 1970, the federal Bills of Exchange Act was amended. Under the revisions, the consumer who had signed a promissory note was given a legal defence if a third party holder of the note sued for non-payment but the original seller of the goods had defaulted on his part of the bargain. This applies to all promissory notes or cheques postdated more than 30 days. In addition, promissory notes or postdated cheques must now bear the words Consumer Purchase prominently and clearly. (R.S.C. 1970, (1st Supp) C. 4, S.I.).

Provincial legislation complementary to the revised Bills of Exchange Act has been passed. "In British Columbia, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Quebec, the assignee of any rights of a lender or credit grantor has no rights than, and is subject to, the same obligations, liabilities, and duties as the assignor" (quote from CCH Sales and Credit Law Guide).

(g) All provinces now have statutes providing for a "cooling-off" period. In general terms, the appropriate provisions relate to executory contracts entered into by the consumer at a place other than the seller's normal place of business. To be rescindable, the contract in most cases must be for a minimum value specified in the statute, and the time within which the contract can be rescinded is also specified (ranging from 48 hours in Ontario to 10 days in Newfoundland). When the contract is rescinded, the consumer is entitled to a refund of the money paid under the contract.

(h) There is to the knowledge of officials of the Department of Consumer and Corporate Affairs no general statutory requirement that a standard form be used for all credit transactions. However, the federal Bank Act and specific statutes in each province require that certain information be disclosed in writing to the consumer, before the credit is given. This information generally includes at least the following: the amount of the loan or the value of goods/services being sold on credit; the amount of down-payment (if any); the balance owing after crediting of the down-payment; the dollar cost of the credit; and the interest rate. The consumer is entitled to a true copy of the contract.

(i) Provisions to this effect are included in statutes in each province. The acts provide that lenders may, when a contract is prepaid, retain their share of the credit charges, plus an amount equal to one-half of the reduction in credit charges, or an amount specified by statute, whichever is the lesser. (This amount is, according to province, $10.00, $15.00 or $20.00).

(j) Wage assignments, garnishees and the operations of collection agencies are subject to the statutes of individual provinces. To the knowledge of officials of the Department of Consumer and Corporate Affairs, there is no national pattern which meets this recommendation.

(k)(1) Part X of the present Bankruptcy Act, which relates only to arrangements by way of extension, has been brought into force only in six provinces; Ontario, Quebec, New Brunswick and Newfoundland have not exercised their power under the Bankruptcy Act to bring Part X into force in their respective jurisdictions.

In order to ensure that all Canadians have access to relief under the Bankruptcy Act, Part III of the proposed Bankruptcy Act, 1975, which was tabled in the House of Commons on 5 May 1975 as Bill C-60, not only extends the nature of the relief granted to include arrangements by way of composition as well as arrangements by extension but also empowers the federal government to offer these services to the public either directly or indirectly through provincial agencies, where a province opts to cooperate to administer the consumer debtor arrangements program.

In December 1975 the Standing Senate Committee on Banking, Trade and Commerce considered the proposed Bankruptcy Act, 1975 (Bill C-60). On 10 December 1975 that committee issued a report that strongly supported in principle the provisions of the bill concerning consumer debtor arrangements but suggested a number of technical amendments better to adjust the respective rights of the parties involved and to improve administration.

(k)(2) Exercising their jurisdiction over property and civil rights, all of the provinces have enacted some legislation to furnish relief to contracting parties in respect of unconscionable transactions. Federal jurisdiction in this area is limited. Parliament does, however, have jurisdiction for example in respect of interest rates and this question will be dealt with in the forthcoming legislation.

(l) From time to time the Department puts out information that relates to credit and currently has the matter under very active review in anticipation of the introduction of new legislation. There have been a number of meetings between the former Minister and his officials and the provincial Ministers within whose jurisdiction certain aspects of credit and regulation of the credit field falls. (See also 2 (h), (i) and (m).).

(m) In recognition of the need for money management education and credit and debt counselling, the Department has made funds available for such purposes.

The Consumer Assistance Grants program provides funds to local, provincial and national voluntary organizations offering consumer information, education and assistance services. In recent months, several grants have been awarded to organizations providing money management and/or credit/debt counselling services. The following is a list of these organizations, the amount of the grant, and a summary of the service provided.

1. Calgary Family Service Bureau, $7,000—This organization provides a range of social services to the community. The grant was awarded specifically to support money management courses, seminars, workshops and individual counselling services.

2. Community Income Tax Service, Winnipeg, $12,000—This organization provides an income tax service for low-income people which helps them avoid tax rebate discounters and loan sharks. C.I.T.S. applied for and received a grant to expand their services to include budget and debt counselling.

3. Association Coopérative d'économie familiale, $55,000—This organization has 12 offices in Quebec. ACEF's main activity is providing budget and debt counselling services, some research and advocacy activities are undertaken in the area of consumer credit, debt problems, legislation etc. Of the total grant awarded, $40,000 was allocated for debt/credit counselling and information programs, $10,000 was allocated for research, and $5,000 was allocated to cover operating expenses and administration costs.

Other grants have been awarded to various voluntary consumer groups whose focus is to provide consumer information and assistance on a variety of marketplace problems. Some of these organizations have done information projects concerning credit, budgeting, debt, etc. An example is the Quinte Information and Assistance Centre in Belleville which organized 2 public lectures on credit and budgeting and also did a television show for the local cable channel on these subjects.

(n) To the knowledge of officials of the Department of Consumer and Corporate Affairs, there exists no central registry, federal or provincial, which lists for public information the history of motor vehicles. (N.B. This assumes that "history" includes such things as mileage(s) at time of previous sale; details of any accidents or major repairs to the vehicle—that is, a complete documenting of the life of a used car). It is possible in all provinces for a consumer to obtain details as to the previous owner(s) of a particular vehicle, by consulting the provincial Registrar of Motor Vehicles or equivalent: there is a fee for this service. In Ontario, the consumer can also obtain the mileage of a used car; this will soon be available in Prince Edward Island.

(o) See answer to (a).

(p) A committee of Deputy Ministers was established at the 16 February 1976 meeting of Ministers of Consumer Affairs. This Committee has the power to strike technical subcommittees on any specific subject. A technical subcommittee on Borrowers' and Depositors' Protection Act has been so established and has met once so far.

The Senate adjourned until tomorrow at 8 p.m.

THE SENATE

Tuesday, June 22, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Communiqué issued following the Federal-Provincial Conference of Attorneys General held at Vancouver, June 17-18, 1976.

CITIZENSHIP BILL

REPORT OF COMMITTEE

Senator van Roggen, Chairman of the Standing Senate Committee on Foreign Affairs, reported that the committee had considered Bill C-20, an act respecting citizenship, and had directed that the bill be reported without amendment.

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

Senator Connolly (Ottawa West) moved that the bill be placed on the Orders of the Day for third reading on Monday next.

Motion agreed to.

CRIME AND VIOLENCE

REPORT OF STANDING SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE PRESENTED

Senator Carter, Chairman of the Standing Senate Committee on Health, Welfare and Science, to which was referred the subject matter of a motion by Senator McGrand to inquire into and report upon crime and violence in contemporary Canadian society, presented the following report:

Tuesday, June 22, 1976.

The Standing Senate Committee on Health, Welfare and Science, in obedience to its Order of Reference of December 18, 1975, has the honour to present the following report:

On May 14, 1975, the Honourable Senator McGrand moved "that the Senate considers it advisable that a special committee of the Senate be established at an early date to inquire into and report upon crime and violence in contemporary Canadian society".

On December 18, 1975, the Senate referred the subject matter of Senator McGrand's motion to the Standing Senate Committee on Health, Welfare and Science and instructed the committee "to look into and report upon the feasibility of a Senate committee's inquiring into and reporting upon crime and violence in contemporary Canadian society and that, if the committee decides that such a study is feasible and warranted, it be further instructed to set down clearly how, by whom, and under what precise terms of reference such a study should be undertaken".

The committee's task was threefold:

(1) to determine the feasibility of the study contemplated;

(2) if feasible, to determine whether such a study is warranted;

(3) if feasible and warranted, to outline how the study should be conducted.

It will be seen, therefore, that the key word is "feasibility". If the committee decides the study is not feasible, then tasks (2) and (3) are eliminated.

The word "feasibility", however, embodies a number of variable factors. Thus a study that would not be feasible under one set of conditions and circumstances might prove feasible under a different set of conditions and circumstances.

In considering feasibility, your committee took into consideration the nature of the subject to be considered as well as the time available, the facilities required (space accommodation, staff, etc.) and the present workload of Senate committees.

Your committee held six meetings and was fortunate to secure the services of Mr. Hugh Finsten and Mr. Gary Tait, two research officers on the staff of the Library of Parliament.

It soon became evident from the work of the research officers that the common factors influencing crime—poverty, broken homes, unemployment, drugs, the penal system, lack of education and vocational training, etc.—are already well known and well documented. Consequently, a wide-open inquiry into the causes of crime in Canada is neither feasible nor warranted.

However, in the course of the inquiry the committee became aware that there is one area related to the causes of crime about which very little is known and which is now engaging the attention of research specialists in several countries, including the United States and France, where extensive work has been going on for several years. This area includes influences experienced in early childhood which may lead to violent and criminal behaviour later on.

This involves a more detailed account of the mother's health and condition during pregnancy, including the blood supply to the brain of the fetus, together with a more detailed account of the birth itself, as well as physical or psychological injuries sustained after birth.

Your committee heard the following witnesses: Dr. Michael Langley and Professor Bryan MacKay, from the Department of Criminology, University of Ottawa; Dr. P. G. Banister, Bureau of Surveillance Services, Department of National Health and Welfare; Lorne Rowebottom, Household and Institutional Statistics Field, Mr. Marcel Préfontaine, and Mr. Paul Reed, Justice Statistics Division, Statistics Canada; and Dr. E. T. Barker, Consultant, Mental Health Center (Oak Ridge), Penetanguishene, Ontario.

For the most part, their evidence indicated strong support for a restricted inquiry as outlined above, and their opinions were greatly reinforced by a number of letters and submissions addressed to Senator McGrand from Gordon E. Warme, M.D., F.R.C.P.(C); Granville A. daCosta, M.D., F.R.C.P.(C); J.D. Atcheson, M.D., F.R.C.P.(C) (three psychiatrists from the University of Toronto); from Dr. B. A. Boyd, F.R.C.P.(C), Medical Director, Mental Health Center, Penetanguishene, Ontario; R. E. Stokes, M.D., D. Psych, F.R.C.P.(C), Director of Bracebridge Community Mental Health Service; C.K. McKnight, M.D., Chief of Service, Forensic, Clarke Institute of Psychiatry; Dr. John T. O'Manique, Professor of Philosophy at Carleton University and member of the Third Research Team for The Club of Rome; Dr. Eileen S. Whitlock, Executive Secretary, The National Association for the Advancement of Humane Education, University of Tulsa, Oklahoma, and Mr. Arthur Maloney, Q.C., Ombudsman for Ontario.

Your committee was convinced that such a restricted inquiry should not be undertaken by the Standing Senate Committee on Health, Welfare and Science, nor by any other Senate Standing Committee, but rather by a very small special committee composed of not less than 6 nor more than 10 members who have a special interest in this problem.

The committee suggests the following terms of reference:

THAT a special committee of the Senate, consisting of 8 senators, be appointed to inquire into and report upon what is being done, and what further avenues of research are required, to detect factors occurring before or during the first three years of life which may lead to personality difficulties or violent criminal behaviour in later life;

THAT the committee have power to send for persons, papers and records and to print such papers and evidence from day to day as may be ordered by the committee; and

THAT the committee have power to engage the services of such counsel, technical and clerical personnel as may be required for the purpose of the inquiry.

It is envisaged that the committee would utilize the services of the research staff of the Library of Parliament to write to specialists of world reputation in this field and related areas and to analyse their replies. From this analysis the committee would select 6 to 8 witnesses so that the expenses involved would be kept to a minimum.

Your committee feels that such a special committee is feasible and that it is warranted by the necessity to focus attention on this gap in our knowledge of the causes of crime and violence and by the interest and stimulation of research that would result.

Respectfully submitted,

Chesley W. Carter,

Chairman.

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

Senator Carter moved that the report be placed on the Orders of the Day for consideration at the next sitting.

Motion agreed to.

TRANSPORTATION

DISRUPTION OF AIRLINE SERVICES IN CANADA—QUESTION

Senator Flynn: Honourable senators, I should like the Leader of the Government to tell us what the situation is today with regard to air travel in Canada.

Senator Perrault: Honourable senators, I had hoped to have a report available by this time. It has not reached me yet, but I hope to receive it imminently. I am endeavouring to obtain an up-to-date report with respect to the air transportation situation in this country. I have undertaken to obtain that information.

● (2010)

PUBLIC WORKS

RENOVATION OF LANGEVIN BUILDING—QUESTION

Senator Molson: Honourable senators, I should like to ask the Leader of the Government how much the cost of renovating the Langevin Building will be, under the headings: structural, mechanical, decoration, and communications.

Senator Perrault: Honourable senators, I will take that question as notice.

NATIONAL DEFENCE ACT AND CRIMINAL CODE (TOTAL ABOLITION OF CAPITAL PUNISHMENT)

BILL TO AMEND—SECOND READING—ORDER STANDS

On the order:

Resuming the debate on the motion of the Honourable Senator Argue, seconded by the Honourable Senator O'Leary, for the second reading of the Bill S-23, intituled: "An Act to amend the National Defence Act and the Criminal Code (total abolition of capital punishment)".—(*Honourable Senator Prowse*).

Senator Petten: Honourable senators, I ask that this order stand until Tuesday, June 29, 1976.

Senator Flynn: Why?

Senator Petten: The sponsor is not here. I think, in all fairness, we should give him the opportunity to decide what he wants to do with his bill.

Senator Flynn: You are referring to Senator Argue?

Senator Langlois: He is not here either.

Senator Flynn: Who is the sponsor of the bill?

Senator Petten: The bill is standing in the name of Senator Prowse. I am aware of that.

Senator Flynn: He is not the sponsor of the bill.

Senator Petten: Senator Argue is the sponsor of the bill, but he is not here, and he is the one I was referring to.

Senator Flynn: What difference does it make?

Senator Petten: Senator Prowse may want to close the debate.

Senator Flynn: Close the debate? The sponsor will have to close the debate. I think your signals are a little mixed up.

Order stands.

INCOME TAX CONVENTIONS BILL

COMMONS AMENDMENTS CONCURRED IN

On the order:

> Consideration of the amendments made by the House of Commons to the Bill S-32, intituled: "An Act to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel".—(*Honourable Senator Langlois*).

Hon. Daniel A. Lang: Honourable senators, in the name of Senator Langlois I move concurrence in the amendments made by the House of Commons to Bill S-32.

It will be recalled that Bill S-32 was passed by this house on March 11 last. The purpose of the bill is to implement certain income tax conventions between Canada on the one hand, and France, Belgium and Israel on the other. The Senate passed the bill without amendment, and then sent it to the other place where some questions of a procedural nature were raised.

Honourable senators will also recall that under the bill as passed here provision was made for the coming into force of amendments negotiated between Canada and these other countries subsequent to the coming into force of the convention itself. It was provided in the bill that these amendments would be proclaimed by order in council, and that the order in council would not take effect until certain conditions had been met. Those conditions were outlined in subclause (2) of clause 11 of the bill as it was before us, and it provided, in essence, that these orders would not come into effect until 30 sitting days after they had been laid before Parliament unless, before that time, a resolution negativing the orders had been made by both houses of Parliament.

The concern in the other place was as to how subclause 11(2), to which I have referred, would, or could, be implemented—that is, in the absence of a motion by the government itself. In other words, could it be implemented, or implemented effectively, or brought to the attention of the house by a private member? Concern was also expressed that the language of subclause 11(2) envisaged the parallel passage of resolutions negativing the order, whereas the preference seemed to be to adhere more closely to our

present procedure—that is, a sequential order of things in terms of which a resolution originates in, and is passed by, one house and is concurred in by the other.

These concerns having been raised, the matter was referred by the minister to the Department of Justice for examination insofar as it might impinge upon the rules of this house or the rules of the House of Commons. Subsequently, the department came up with the amended section which appears in the copy of the bill that is on our desks this evening.

Instead of just one subclause, honourable senators, the amendment involves nine clauses, and it is quite a complicated piece of draftsmanship, but it does indeed spell out everything that might occur in the event that such a resolution were introduced in either this house or the House of Commons. It also makes provision for the initiation of the resolution on a petition by 50 members of the other place, and in this house by a petition of 20 senators.

Insofar as the rights and privileges of the Senate are concerned, in my opinion they are fully met in the proposed amendments. In fact the position of the Senate, its rights, privileges and responsibilities, in this area are far more clearly delineated now than they were in the original clause. These amendments as they stand will, of course, only affect a situation where there is an amendment agreed to between Canada and Israel, Canada and France or Canada and Belgium, and such amendments have to be made operative. As in the original clause, the procedure is by way of a resolution rejecting the order in council. If such negativing resolution is not forthcoming in both Houses of Parliament, then the order in council automatically comes into force after the expiration of 30 sitting days. The amendment also makes clear what "a sitting day" means in this bill. All in all, honourable senators, I can assure you that the bill as amended by the House of Commons is an improvement over the bill as originally drafted.

There is one other minor amendment and that is to subclause 10(4), namely, an insertion to the effect that the notice of proclamation of the order in council in the *Canada Gazette* must set out the terms of the supplementary agreement. This amendment requires the publication of the details of the supplementary agreement. Obviously, that is for the purpose of obtaining the maximum exposure to public scrutiny before that agreement can become law.

● (2020)

Honourable senators, as I mentioned a few moments ago, I believe these amendments to be beneficial in terms of procedure in the other place, but they are certainly beneficial in defining the procedures that are to be followed here. I would, therefore, recommend your concurrence in these amendments.

Motion agreed to and Commons amendments concurred in.

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A)—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Carter, seconded by the Honourable Senator Lang, for the adoption of the Report of the Standing Senate Committee on National Finance on the Supplementary Estimates (A) laid before Parliament for the fiscal year ending the 31st March, 1977.—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Honourable senators, I yield to Senator Asselin.

The Hon. the Speaker: Has the Honourable Senator Asselin permission to proceed instead of the Honourable Senator Flynn?

Hon. Senators: Agreed.

[*Translation*]

Hon. Martial Asselin: Honourable senators, as you see, the Opposition is always willing to participate in the debates of the Senate.

I read attentively Senator Carter's presentation of that item in the supplementary estimates now before us. His statement was brief. I would like to make a few remarks before we adopt it.

I deplore of course, as my party did in the other place, that the government decided to create Loto Canada through supplementary estimates. I say this is sort of a camouflage of the true data of the requests for supplementary supplies that the government wanted to introduce through this legislation, as if they somehow wanted to gloss over the facts. They said we are going to include Loto Canada in the supplementary estimates. I think they should have introduced a bill that would have allowed us to discuss only the creation of Loto Canada. I believe without going into details that the reservations we made were sound because in acting that way I think the government created a dangerous precedent that is unacceptable in our present parliamentary system.

However, I hope that in so doing the government had no intention of establishing a precedent, and that our objections to the form of creating Loto Canada by an item in the supplementary estimates will not recur from now on, so that all members of both houses can discuss as usual the particular subjects introduced as bills.

I support the government when they want to help meet the Olympic deficit through Loto Canada. We were told that program will be implemented for 3 years only. When the $300 million will have been collected and paid to the Olympic Games authorities, Loto Canada will cease to exist. The minister in charge told the house that if Loto Canada were to be extended, he would have the decency to come before the house to obtain additional authority. We welcome that attitude by the government. I would say this is in a way another about-face by the government, because they repeatedly suggested, especially during these last months, that there was no way the federal government would ever contribute to the Olympic Games' deficit. This was often repeated. We were told they had the commitment of the Quebec premier and the Montreal mayor, when the decision was taken to hold the Olympic Games, that the project would be self-financing.

[*English*]

Does Senator Croll want to ask a question?

Senator Croll: I was merely indicating to the Leader of the Government that I recall your standing up and recommending that by all means we as a government should do something.

Senator Asselin: I am coming to that. The government said before that they would never pay anything toward the deficit of the Olympics, and I said they had changed their ideas on that. I agree with the government. Wait a bit.

[*Translation*]

I am saying that the government had decided not to help cover the Olympic deficit because it had had the assurance of the mayor of Montreal, the Quebec premier and the Quebec government that the Olympic Games would finance themselves. We know the rest of the story. We now face the creation of a Canadian lottery which will indirectly allow the government to cover the deficit of the Olympic Games to a maximum of $300 million. I say "indirectly" because the government could have taken other action. But of course the government did not want to go back on its decision that quickly. The government could have taken this $300 million from the public funds and handed it over directly to the Olympic Games. But indirectly, it wanted the deficit to be covered by Canadians in general.

I say, and I repeat to help Senator Croll understand, that I have always said in this house that the government should help cover the Olympic Games deficit because I believe that the Olympic Games are not only for Quebecers. This is a national event. I believe that all Canadians will benefit from the holding of these Olympics in Canada. In my opinion, this will stimulate young Canadians who will be enriched by this experience which will take place on Canadian soil.

In short, I believe that the organization and the success of the Olympics depend on the reputation not only of Quebec but of all Canada. Ours is the country that will host the athletes, whether the Games are held in Quebec or in Ontario—actually, I believe that some of the events will be held in Ontario. I believe that the pride and the interest of Canadians will ensure that these Olympics will be an unprecedented success.

Of course, some people find this formula not quite acceptable. We have even heard senators who object to the Loto Canada formula. Maybe they object because of religious and moral convictions. They have told us that this lottery is an indirect and additional tax for poor Canadians because they will want to try their luck by buying Olympic lottery tickets. I believe that this sort of thinking comes from a misunderstanding of human nature because we all like gambling and want to try our luck. This is human nature. We should not be surprised that even small wage-earners who do not have the means to buy Olympic lottery tickets for every draw will still want to have a go at it. In my opinion, this way of thinking should be abandoned. I think it is time in 1976 to follow the evolution of society and reject some anachronisms that are out of place in a modern society. Obviously, I respect the religious and moral principles expressed by some honourable senators and I think that we should not put those principles aside as they are very important for those who defend them, but we should not apply them as a general rule to object to the basic principle of Loto Canada.

● (2030)

I object to this government showing an overly paternalistic attitude in that the legislator should legislate on everything that concerns the freedom of individuals. We should let the individual act according to his own conscience. Parliament is not an instrument to pass legislation to restrict all kinds of freedoms which do not go against public morality. I think the bill before us to incorporate a Canadian lottery does not go against public morality. It would be wrong to believe that according to some principles, which I consider obsolete, we should always legislate to restrict individual freedoms as if people would not make their own decisions.

I think that this Loto Canada would help our youth to take an active part in physical fitness programs, amateur sports and recreational activities. In Senator Carter's presentation, I noticed that in the present fiscal year we could appropriate up to 5 per cent of the net revenue for physical fitness, amateur sports and recreational programs, under the regulations that will be made. It will also help the provinces that will receive a percentage to promote amateur sports in Canada.

We know that in this field we are behind the youth of other countries which have physical fitness, sport and recreation programs which are more advanced than ours. Today, our youth understand that to be in good health they have to practise sports and physical fitness. Unfortunately, we do not have the means to finance the facilities needed by our youth to participate in physical fitness programs and amateur sports. I think that this still contains an excellent formula providing the provinces with a certain percentage which will enable them to develop amateur sport and physical fitness for their youth. I am very pleased that the bill contains this clause to help the provinces develop among their youth a taste for sports so that they can be in better physical condition and enjoy good health.

Of course, like some parliamentarians, we deplore, on this side of the house, the extravagant Olympic spending. The cost of the Olympic Games and facilities could certainly have been lower. But the mayor of Montreal told us that inflation was the culprit, so that today we are faced with a deficit of about $1 billion or $900 million. It is not fair that only Quebecers should bear this financial burden. Recently, I read an article saying that after the Olympics the Montreal taxpayers will experience extremely severe economic hardships. The city of Montreal, I mean the taxpayers of Montreal, will have to pay one-third of the Olympic deficit, or about $300 million.

The Hon. the Speaker: $200 million.

Senator Asselin: I thank the Speaker for correcting me. She said that we will have to pay $200 million. It is still too much. It is still too much for the Montreal taxpayers. As I said earlier, I think this is a national event from which all Canadians will benefit. Therefore, it would be only fair that the Montreal taxpayers should not have to pay alone such a high amount, $200 million. I repeat, I read last week that according to some economists, the city of Montreal will experience extremely severe economic hardships after the Olympics. This is because both foreign investments and provincial investments will dry up. After spending considerable amounts for the Olympic Games, the province will have to diversify its future investments in order to look after other sectors in the city of Montreal. They will also have to look after the rural districts that had been neglected for some time in order to spend all the funds available on the facilities for the Olympic Games.

As for myself, I am in favour of that bill. In addition, and this may reassure the Canadian people, the mayor of Montreal as well as the province of Quebec and the officials responsible for the Olympic Games have agreed to launch, after the Games, an investigation into the management for the construction of facilities at the Montreal Olympics. A parliamentary inquiry could be held. I think that it is only fair to the Canadian people who will spend money to make up the deficit. We must make sure that the Olympic facilities were properly built. The mayor of Montreal has renewed his promise to submit to Parliament all the data involved if an investigation is conducted by a parliamentary committee and he eagerly endorsed that suggestion. I think that this assurance will help Canadians to better understand the problems now facing COJO.

In short, we support the principle of the bill. We repeat that we object to the fact that the bill was introduced by way of supplementary estimates. We would have preferred a bill entitled Loto Canada Incorporated, but we have been assured that it will not be a precedent. In short, we endorse the formula and approve its principle.

● (2040)

Hon. Léopold Langlois: Honourable senators, I merely wish to add a few comments following the remarks made by my friend, Senator Asselin.

The senator first deplored that a separate bill was not introduced instead of an item in the supplementary estimates. The reason for this decision was clearly explained by the Honourable Jean Chrétien. He first noted the generous offer made by the Leader of the Opposition in the other place to support such a bill, but this offer was made on the condition that the bill would receive quick approval by the house, and that it was necessary. As honourable senators know, the Olympic lottery will come to an end next August and since no agreements had been made with the other provinces, it was necessary for the government to step in immediately in order to extend this means of funding the Olympic Games. Unfortunately, it was not possible to get the other party leaders to agree in the other place. Because of this, it was necessary to proceed by means of an item in the supplementary estimates and that is why this procedure was followed. However, there is more than that. A crown corporation has been incorporated by letters patent, and this corporation will be subject to the provisions of the Financial Administration Act and will have to table every year an annual report which will be examined by both houses of Parliament. In addition, there will be every year an item in the estimates of the Department of National Health and Welfare under the physical fitness, amateur sport and recreation programs, and this item will also be subject to discussion in both houses by way of the estimates tabled every year.

So there is a possibility of review every year, a possibility of consideration and discussion of Loto Canada operations. I believe this is a most interesting guarantee. As some honourable senators have explained in this house, as well as members in the other place, this will be a guarantee

that every year the government will have to give an account of Loto Canada operations. That explains why we are proceeding by way of estimates.

On the other hand, Senator Asselin has also made a remark I cannot ignore when he said that there will be a $300 million shortfall. It is far from being proved. This is an estimate established before the Games have taken place, and without even knowing what total revenues and expenses will be. It is simply an estimate and in spite of that estimate, the mayor of Montreal remains unfailingly optimistic. In fact, he has gone a little far, the mayor. I do not blame him nor do I think he made such a big mistake as some would have us believe, but he was the victim of extraordinary circumstances. I do not want to come to his defence by saying this, but we must not forget that work conditions have been extremely difficult, the work being done during the most difficult period the province of Quebec has ever known as regards labour relations. In addition, there was inflation, which was unpredictable. There was also the date fixed for the end of the work. When they have to terminate some work before a fixed date, or otherwise jeopardize the success of such an important event as the Olympic Games, continuous pressure is put upon the promoters of such a project, since they have to make decisions rapidly to prevent a delay which could be disastrous. When you are working under such pressure, I think you cannot freely take advantage of all the opportunities which could present themselves.

Be that as it may, whatever the Olympic deficit, the Government of Canada has never said it would not participate in absorbing that deficit. The statements of the Prime Minister have always been conditional upon the fact that he would not ask the taxpayers of the country to contribute directly to making up the Games' deficit.

Senator Asselin: Does—

Senator Langlois: Let me finish, my honourable friend. I was kind enough not to interrupt you; try to do as much for me.

The Prime Minister has always said he would not ask the Canadian taxpayers to contribute directly to paying off the Olympic deficit. The means used today, by instituting Loto Canada, is not a direct way of paying off the deficit but an indirect one. The Consolidated Revenue Fund is not being dipped into for an amount of $300 million to make up the deficit. A lottery is merely resorted to, a lottery similar to that which has existed for almost two years and still exists today: the Olympic lottery, which indeed was set up as a means of avoiding an eventual deficit. It was part of overall organization of the Olympics. When Mayor Drapeau and other responsible authorities in our province discussed the possibility of hosting the Games without going into debt, they foresaw means of financing them other than by the Olympics themselves. I have never heard anyone in my province say that the Olympic Games would pay for themselves. Other means of financing were discussed such as the Olympic coins, the Olympic stamps, the Olympic lottery and, in addition, to provide for extra income, Loto Canada. I think it was in the minds of those who promoted the Olympic Games to include that in the organization of these international games.

I now turn to the remarks made by my honourable friend when he talked about the morality of lotteries. I agree with him. I know that for a long time there has been some reluctance to use gambling for financing any operation or project, though we always allowed the Irish Sweepstakes to come into this country to get some financing or income. Then, if we accepted it for other countries, why not for ourselves? I think this is a change of opinion in the right direction, and on that ground I agree with my honourable friend.

Now, with respect to the cost-sharing of the deficit, estimated at $900 million, it is far from being a real figure. It is purely an estimate. I hope it will remain within this estimate. My honourable friend says that Montreal ratepayers will pay $200 million. As rate-payers of Montreal, that is right, but as taxpayers of the province of Quebec in general, they will pay more than $200 million. Indeed they will share with other Quebec taxpayers the rest of the deficit. But if it is about $900 million, with $300 million coming from Loto Canada and $200 million from the city of Montreal, there will be $400 million left, of which rate-payers from Montreal, as general taxpayers of the province of Quebec, will have to pay their own share. I think this is one point one should not forget to mention at this stage.

I will probably have the opportunity to come back to this matter when the supply bill will be before this house within a few days. So my comments tonight will be limited to these few remarks. My honourable friend presumably realizes I did not say that in any way to criticize his fine speach, but to restore some facts.

● (2050)

[*English*]

Hon. Raymond J. Perrault: Honourable senators, I had not planned to participate in this useful discussion, but I feel that it may contribute to the national dialogue if I do. I do so not in a critical way, because I have listened with interest to the distinguished senator's comments on Loto Canada, but in order to offset a good deal of unwarranted criticism of the Olympic Games in certain parts of Canada, as well as misconceptions about the Canadian government's role. I wish to express my enthusiasm for the government's efforts to provide additional financing to make up for the unprecedented deficit.

Beginning on July 17, the finest amateur athletes from every province of Canada—and I emphasize "from every province of Canada"; they are not just from Quebec, but from British Columbia, the Prairies, Ontario and the Atlantic provinces—together with the finest amateur athletes from around the world, will be vying for Olympic honours in this country. There is no doubt that all of the people of this country will be caught up in the excitement of this great spectacle, and much of the bickering we have heard in the past four or five years will go by the board as Canadians join together in general enthusiasm for the Games. They will be watching the Olympic events in Montreal and in Kingston, Ontario, which is one of the Olympic sites. They will be glued to radios and television sets in Moncton, St. John's, Halifax and Charlottetown, as well as in Prince Rupert, Toronto, Calgary, Winnipeg and Vancouver.

We all know that since their inception the modern Olympics have always had their triumphs and their tragedies, their bickering and their good will. Indeed, their history

has been one of great disputation as the various facilities have been brought into existence. That is one aspect of the history of the Games, but a tremendous amount of good has come out of them as well.

All of us know the tremendous financial costs of staging the 1976 Games, not the least factor of which being an unprecedented world inflation. The federal government has always been an enthusiastic backer of the Olympics, although it was made clear from Day One that it was not picking up any deficit that might be incurred. That message to Montreal was exactly the same as the message which was delivered to those who at one time wanted to have the Winter Olympics in British Columbia. Many of the people in western Canada, the area where I come from, do not understand that the federal government offered British Columbia the same financial deal with respect to the Winter Olympics as it offered Montreal with respect to the Summer Olympics. The bids were on the same basis, but the Province of British Columbia declined to provide its support. That should be put on the record. Incidentally, the same support is also being given to the 1978 Commonwealth Games to be held in Edmonton. This government does not discriminate, and it should be noted that it provided financing for the Canada Summer Games in British Columbia, in the Atlantic provinces and, more recently, I believe, in the Prairie provinces. The various ways in which federal support was given were exactly the same in all cases. There was no discrimination. This talk that somehow the federal government favours one part of Canada against another is simply baseless. That kind of allegation is simply not true.

The federal government is a major promoter of amateur sport and fitness in this country through the Department of National Health and Welfare, and it is a major source of funds to many athletic organizations, as honourable senators are aware.

In 1969 the Prime Minister wrote to the International Olympic Committee expressing the support of the Canadian government for Montreal's bid for the 1976 Olympics. Although Ottawa predicted the financial deficit which it said all the taxpayers of Canada could not be expected to share, it did introduce early on two bills establishing self-financing programs—stamps, coins and the Olympic lottery which are expected to produce a total net revenue in excess of $360 million. The government also agreed to provide services under federal jurisdiction in the areas of security and customs and immigration, in addition to authorizing the expenses incurred by the CBC for additional equipment and other facilities which are necessary to bring the Games to all Canadians and to the world. The expenditures of some 35 federal departments and agencies in meeting the needs of the Games are estimated at approximately $155 million. By late February of this year, almost $28 million had already been laid out.

The federal government is also involved in such facets of this huge undertaking as foreign visitors, protocol, facilities at both Montreal and Kingston, postal services and the cultural program, which will be enjoyed by hundreds of thousands of people from across this country and from around the world who will flock to the Games this summer. And I know that many senators have purchased tickets. Those tickets have not been given out.

[Senator Perrault.]

For many reasons the anticipated deficit of the 1976 Olympics will be much larger than anyone predicted a few years ago. But this is not a time for recriminations. To help offset this cost, and because of the resounding success of the Olympic lottery, we have before us the proposal for a national lottery, Loto Canada, a proposal which has been fully discussed by the Opposition, my colleague the Deputy Leader of the Government and others in this chamber. Part of the proposal is that Loto Canada be permitted to run until late 1979. This action, through voluntary financing, will help to meet the deficit. But it is voluntary. People do not have to buy tickets, if they do not want to. If people wish to adopt the view that it is all right for athletes in their province to compete in the Games but they will not give one red cent to the Games, they can be right at home with their own narrow viewpoint. However, most Canadians will want to pay a share voluntarily in order to indicate that they are proud to have athletes from their home provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, or the Atlantic provinces participate in the Games, and because they know that such participation costs money. So people can voluntarily buy these tickets, and thus help to meet the deficit, and also provide funds to meet any deficit which might be incurred in the Commonwealth Games in Edmonton in 1978.

Honourable senators, I realize these facts are known to you, but I wish to put them on record again. Under the plan, 82.5 per cent of the net revenue will be used for meeting deficits; 12.5 per cent will be distributed to the provinces according to the number of tickets sold within their borders; and the remaining 5 per cent will be used by Ottawa to finance physical fitness, amateur sport, recreation programs, and various sports events to be held throughout Canada in the future. I think we all support that objective. Those events could include the 1977 Canada Summer Games in Newfoundland as well as the 1979 Winter Games in Brandon, Manitoba, and the Arctic Games.

That is an indication of where some of this money is going. It is not just a cynical bail-out operation, as some professional crepe drapers across the country have suggested. On the contrary, the government is perfectly entitled by law to continue this national lottery, and it is obvious that the moneys will go to help every part of Canada by various means.

The extended lottery will be run by a crown corporation answerable to Parliament and subject to a compulsory annual audit by the Auditor General. It will also be required to publish an annual report and to make any other report requested by the government.

All of these moves, which I have outlined, clearly illustrate that the government is behind the Olympics, and behind all the other major meets which will be held in Canada, and it hopes for their overwhelming success. The government has carried out all its obligations and has not involved the Canadian taxpayer in any costs other than those originally agreed to.

● (2100)

It is now but a few days before the Olympic torch will be lit. It will be carried to Montreal, and this great event will begin. I know that honourable senators and most Canadi-

ans, even the critics who have been predicting that the deadline would never be met and that the Olympic Games were going to be a colossal failure, now join in wishing the Games every success. This event, to which we have all made some contribution, will bring us closer together as our young Canadians from every province compete on an international basis. But in the end it is the people of Quebec, because these great permanent facilities will remain primarily theirs, who are going to bear by far the major burden of the costs of staging this spectacle which more and more promises to be the greatest Olympic Games in history. Let us all get behind them.

Senator Fournier (de Lanaudière): I suggest that this debate be adjourned until the Olympic Games are over. Then we will be more at ease in saying what we have in our minds.

On motion of Senator Grosart, debate adjourned.

PENITENTIARIES

ACTION TAKEN TO IMPLEMENT PRINCIPAL RECOMMENDATIONS OF SPECIAL JOINT COMMITTEE—INQUIRY ANSWERED

Senator Croll inquired of the government, pursuant to notice:

What specific action, if any, has been taken in implementation of each of the following principal recommendations contained in the Report of the Special Joint Committee of the Senate and House of Commons on Penitentiaries, tabled in both Houses of Parliament, April 26, 1967:

"That the Committee approve the decision to construct a second maximum security institution on the standard design proposed by the Canadian Penitentiary Service, subject to the following recommendations:

(1) That the specific modifications to the Canadian Penitentiary Service standard design recommended in the text of this Committee's Report be implemented.

(2) That no additional maximum security institutions be built on this design without allowing for a period of experience with the one institution under construction and the one contemplated; and without a basic review of the standard design in the light of developing correctional philosophy.

(3) Moreover, before any further consideration is given to the construction of additional maximum security institutions, the Canadian Penitentiary Service should prepare a detailed statement of the program that it proposes to conduct in such institutions, with particular reference to programming directed to behavioural change, and that every effort be made to relate requirements, in terms of space, classification and architectural design, to the best knowledge available concerning programming for behavioural change in the correctional context."

Senator Perrault: Answered.

The following modifications to the Canadian Penitentiary Service standard design recommended in the text of this Committee's Report were implemented in the construction of the Millhaven Maximum Security Institution:

(1) The control points were reduced to a strict minimum and the fencing separating inmates from the staff was removed in all corridors.

(2) Additional space was provided for classrooms and the number of day rooms was increased.

(3) Library space has been expanded and reading space was made available to inmates to allow them to have access to the library.

No additional maximum security institution of the type of construction used for the Archambault and the Millhaven Institutions was built since.

In 1971, the Working Group on Federal Maximum Security Institutions Design Committee appointed by the then Solicitor General, submitted its report (copy attached). This report and its recommendations form the basis of the planning of future maximum security institutions, one of which is at present in planning for construction in Agassiz, B.C. These new institutions will accommodate a population of less than 200 inmates, will provide more space for social development, educational and recreational programs, will include within its confines kitchen and dining facilities and will be operated on the Living Unit concept referred to in the above-mentioned report. In addition, the emphasis on security was placed on perimeter security and lessened within the confines of the physical accommodation.

The decision to build new institutions to accommodate less than 200 inmates but more than 150, as recommended in the report, was made on the basis that it would be uneconomical to construct such facilities for 150 inmates from the point of view of capital cost and space and staff utilization.

The recommendations of the Joint Senate and House of Commons Committee of 1967 also received due consideration in the planning of these new smaller institutions.

TRANSPORTATION

DISRUPTION OF AIRLINE SERVICES IN CANADA—QUESTION ANSWERED

Senator Perrault: Honourable senators, at the outset of this evening's proceedings I promised to make every effort to obtain further information about the current airline situation. I am now able to report that the Minister of Transport has officially notified the airlines that the air traffic control system in Canada is fully operational once again.

The airlines today were granted an interim injunction against the pilots. A full hearing on this matter will take place in court on Thursday. Despite that, the pilots have not shown any inclination to return to work. Air Canada has commenced legal proceedings against the Canadian Air Line Pilots Association. The Minister of Transport is presently endeavouring to name a new commissioner or commissioners to the independent commission investigating the problems which have beset the air traffic control

group and the pilots with respect to the bilingual policy. This is in terms of a negotiated agreement with the air traffic controllers. It is quite possible that an announcement on the new appointee or appointees will be made tomorrow.

I have been informed that all Quebecair flights are now fully operational, and that all Nordair flights are operational in Canada with the exception of one flight from Montreal to Hamilton to Ottawa.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, June 23, 1976

The Senate met at 2 p.m., the Honourable Maurice Bourget, P.C., Speaker *pro tem*, in the Chair.

Prayers.

THE LATE HONOURABLE WILLIAM A. BOUCHER

TRIBUTES

Hon. Raymond J. Perrault: Honourable senators, it is with regret that we have learned of the death today of an esteemed member of this chamber, the Honourable William Albert Boucher. Senator Boucher was born, raised and educated in Saskatchewan. He was for many years reeve of the rural municipality of St. Louis in the province of Saskatchewan where he was a successful farmer and merchant. Senator Boucher was elected to the House of Commons in October 1948, and re-elected in 1949. He was the Liberal whip in the Commons from 1949 to 1953, and in January of 1957 he was summoned to the Senate.

Senator Boucher had a long career of service to his municipality, to his province and to his country, and until his health failed he was, as honourable senators know, a faithful attendant in this chamber. Although he has been absent for some time, Senator Boucher will be greatly missed by his colleagues here who will remember him as a friendly and sincere man who made a lasting impression on this house and, indeed, on all parts of Parliament.

I know that all honourable senators will join with me in extending to his son and to his daughter our deepest and most heartfelt sympathy in their bereavement.

Honourable senators, it was with a great deal of sadness that the news was received yesterday of the tragic and untimely death of Jean-Claude Robichaud, eldest son of the Honourable Louis Robichaud. He died in Ottawa after a long illness. I know that all senators join me in extending our deepest sympathy to our colleague and his wife, Mrs. Robichaud, as well as other members of the family, in their hour of bereavement.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, even if we knew that Senator Boucher's health had been failing for some time, the news of his death has deeply moved us.

The government leader recalled his parliamentary career of over 30 years; he was elected to the House of Commons in 1948 and appointed to the Senate in 1957. Senator Boucher was a gentleman of the old school, very tactful, exuding a social charm recognized by all. His departure deeply pains us. I join the government leader in expressing to his family the sympathy of the opposition.

I also extend the sympathy of the Opposition to Senator Robichaud, his wife and his family in their very cruel mourning for their eldest son. He had been ill for some time, it is true, but it is always a very hard blow to lose a child.

I know that I am the spokesman for every senator and more especially the Opposition when I tell him that we understand his grief and share it.

Hon. J. Eugène Lefrançois: Honourable senators, I wish to join the previous speakers in deploring the death of our colleague and friend Senator Boucher. We became acquainted between 1949-53 when we sat together in the House of Commons. We were both called to the Senate the same year, in 1957, he in January and I in April; since then we have always been deskmates so I have learned to know and appreciate him. He was a perfect gentleman.

To the members of his family, his daughter and his son, I extend my deep sympathy.

● (1400)

[*English*]

Hon. A. Hamilton McDonald: Honourable senators, I should like to associate my remarks with those of my colleagues who expressed their condolences to the Boucher family. The only thing I want to add is that most of us from Western Canada referred to Senator Boucher as "Boss" Boucher. There is a reason for that. I am sure that all honourable senators are aware of the difficult circumstances that prevailed in the Prairie provinces in the early days of the settlement of Western Canada. The late Senator Boucher played an important role in that development, especially in the Province of Saskatchewan, in that he was actively engaged in the retail business and the construction business. He employed so many native people in construction in public works, provincially and federally, that he got the name "Boss"—because he was the boss. He provided employment and opportunities for people to make a gainful living through his development efforts, particularly in Saskatchewan.

There are probably few people who completely understand the part that he and many like him played in that development. I want to say particularly on behalf of the native people of Saskatchewan a special word of thanks for the opportunities that Senator Boucher provided for people to be gainfully employed and for his efforts in providing facilities so badly needed at that time. I join with my colleagues in expressing my condolences to his family.

Honourable senators, I cannot resume my seat without referring to the death of Senator Robichaud's eldest son, Jean-Claude. I am sure we are all aware of the problems encountered by Senator Robichaud's son and the fight that Senator Robichaud and his son put up to sustain his life. Unfortunately, Jean-Claude was not able to carry on the struggle any longer. I should like to associate myself with my colleagues' remarks and to extend my condolences to the Robichaud family.

APPROPRIATION BILL NO. 3, 1976

FIRST READING

The Hon. the Speaker *pro tem* informed the Senate that a message had been received from the House of Commons with Bill C-93, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

Bill read first time.

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

Senator Perrault, with leave of the Senate, moved that the bill be read a second time later this day.

Motion agreed to.

● (1410)

APPROPRIATION BILL NO. 4, 1976

FIRST READING

The Hon. the Speaker *pro tem* informed the Senate that a message had been received from the House of Commons with Bill C-94, for granting to Her Majesty certain sums of money for the financial year ending the 31st March, 1977.

Bill read first time.

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

Senator Perrault, with leave of the Senate, moved that the bill be read a second time later this day.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report on proceedings under the Canada Labour Code, Part III (Labour Standards), for the fiscal year ended March 31, 1976, pursuant to section 75 of the said Code, Chapter L-1, R.S.C., 1970.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED

Senator Hayden, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, to which was referred Bill C-58, to amend the Income Tax Act, presented the following report:

Tuesday, June 22, 1976.

The Standing Senate Committee on Banking, Trade and Commerce, to which was referred Bill C-58, intituled: "An Act to amend the Income Tax Act", has, in obedience to the order of reference of Tuesday, April 6, 1976, examined the said bill and, for the reasons hereinafter mentioned, now reports the same with amendments.

Bill C-58 is an example of use of the Income Tax Act to achieve purposes unrelated to fiscal policy.

In 1965, the act was amended[1] to exclude as deductible for tax purposes expenses of an advertiser for space in an issue of a non-Canadian newspaper or periodical as defined in the Act.[2] An important exception[3] to this rule was made in the case of newspapers or periodicals edited in whole or in part in Canada and printed and published in Canada prior to April 26, 1965. The principal beneficiaries of this exemption were *Time* Canada and *Reader's Digest*.

Bill C-58 would remove this exemption so that in order for advertising expenses to qualify as deductions, a periodical must meet the criteria set forth in the act requiring, amongst other things, that a newspaper or periodical be 75 per cent owned by Canadians and that it be edited, printed and published in Canada. The most important requirement, however, is that the newspaper or periodical cannot be "substantially the same" as a periodical that is printed, edited or published outside Canada.[4]

Bill C-58 would also remove the exemption in the act in respect of advertisements in catalogues and publications the function of which is to promote the fine arts, letters, scholarship or religion[5] under which publications such as *MD* magazine have heretofore qualified.

Finally, the bill would introduce non-deductibility for expenses for advertisements directed primarily to Canadians by a foreign broadcasting undertaking.

While your committee supports what has been stated to be the objective of the bill, namely, the promotion of stronger publishing and broadcasting industries in Canada, it has reservations both as to whether the Income Tax Act is the proper vehicle for accomplishing these objectives and as to whether the measures proposed are likely to achieve the degree of effectiveness contemplated by the government ministers supporting the bill who testified before your committee.

There are, however, several areas where your committee considers amendments to the bill are required. One concerns the interpretation of the words "substantially the same" referred to above and results in part from the actions and statements of the Minister of National Revenue arising out of *Time* Canada's attempt to clarify its status under the act following introduction of the bill. Another concerns the manner in which the decision to bring into force the provisions relating to the broadcasting industry is to be made.

In the last analysis, the meaning of words in statutes is something to be decided by the courts. Ordinarily, however, judicial interpretations of provisions of the

[Senator McDonald.]

[1] s. 19

[2] sub-s. 19(5)

[3] sub-s. 19(2)

[4] clause 19(5)(a)(ii)(F)

[5] sub-s. 19(4)

Income Tax Act only result from the taxpayer having done something which is disputed by the Minister of National Revenue. However, the department has adopted a policy which has been in effect for some years whereby a taxpayer may obtain an advance ruling on a question of interpretation.[6] These rulings, which are stated to be binding on the minister, are obviously of great assistance to a taxpayer in that he is able to ascertain in advance how a proposed course of action may be dealt with under the act. The alternative is to proceed without a ruling and risk an adverse determination by the courts after the fact.

It must be assumed that, in giving rulings of this nature, departmental officials should attempt to place themselves in the position of a court faced with the same question. In other words, the arguments on both sides should be weighed and an objective decision reached in the light of reason and existing jurisprudence. The purpose is not, on an application for a ruling, to give a decision which is in effect an assertion of the position which would be most favourable to the minister.

In the case of the desire of the affected periodicals to obtain an interpretation of the words "substantially the same" it could be argued that, although the periodicals were themselves Canadian taxpayers, an application for a ruling could only be made by a taxpayer in whose direct interest it was to have a decision, i.e., a taxpayer who was an advertiser in that periodical. Discussions between the periodicals and the department as to the interpretation of the words may, therefore, have proceeded on a basis outside the normal ruling application procedure. However, in your committee's opinion, the approach of the minister and his officials in that case should have been no different from their approach in dealing with a formal ruling application by a taxpayer directly affected.

On October 23, 1975, after several meetings with *Time* Canada, the Minister of National Revenue announced in a press release that at least 80 per cent of an issue of a periodical published in Canada, excluding advertising, had to be different from the contents of an issue published outside Canada. He also announced that, should this interpretation be successfully challenged in the courts, he would introduce legislation to reinstate his interpretation.

From the evidence before it, and in the light of existing jurisprudence, your committee has regretfully concluded that in developing the "at least 80 per cent rule" it seems apparent that, far from attempting to give an impartial interpretation, the minister was attempting to amend clause 19(5)(a)(ii)(F) of the act to conform with the views of the government. Amendments, in your committee's opinion, are a matter for Parliament, not the executive branch of government.

The rule of law and the supremacy of Parliament are surely two of our most cherished institutions. They should not be allowed to give way to ministerial zeal.

Your committee is of the view that, should any periodical at any future time wish to attempt to qualify as a Canadian periodical, it should have the benefit of a fair and impartial means of obtaining a decision in keeping with judicial traditions in this country. Your committee therefore recommends that the bill be amended so as to oblige the Minister of National Revenue to submit the issue to the courts for determination.

A side issue which has developed as a result of delays in passage of the bill is that the proposed effective date of the provisions affecting periodicals (January 1, 1976) has now passed. In order to remove any suggestion of retroactivity, a fundamentally repugnant notion which should be resorted to only in cases of extreme need, your committee recommends that the effective date be changed to January 1, 1977.

Dealing with your committee's second principal objection, in connection with the bringing into force of the broadcasting provisions, your committee notes that the Secretary of State in an announcement in the House of Commons on January 23, 1975[7], stated that, before bringing in provisions to discourage Canadian advertisers from advertising in U.S. border stations, it would be necessary to make sure that sufficient advertising time was available on Canadian stations. Bill C-58 provides that these provisions shall be brought into force on proclamation, thus leaving the timing to the executive branch of the government. Another method of proceeding might have been to defer introduction of the legislation until it was clear that all the factors, including availability of time on Canadian stations, indicated that the provisions were warranted. The government has chosen a course whereby the provisions should be enacted now but brought into effect at a later date. Your committee has no objection to this procedure provided that the timing of the provisions is decided by Parliament. It accordingly recommends that the bill be amended so that the broadcasting provisions shall be brought into effect by a resolution of the House of Commons concurred in by the Senate.

Your committee is not convinced that removal of the exemption in respect of publications such as *MD* magazine will assist the objectives of the bill and it therefore recommends partial restoration of the provisions of the act in that regard which the bill would have removed.

For the foregoing reasons, your committee recommends the following amendments to Bill C-58:

1. *Page 1:* Strike out line 12 and substitute therefor the following:

[6] See Information Circular, Department of Revenue, Taxation, No. 70/6, September 14, 1970.

[7] Commons Debates, January 23, 1975, page 2527

"after December 31, 1976 for an advertise—".

2. *Page 1:* Strike out line 16 and substitute therefor the following:

"repealed and the following substituted therefor:

"(4) Subsection (1) does not apply with respect to an advertisement in any publication the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion."

3. *Page 1:* Strike out line 17 and substitute therefor the following:

"3. (1) The said Act is further amended by".

4. *Page 1:* Strike out line 20 and substitute therefor the following:

"'19.1 (1) In this section, "publisher" means a person who has or proposes to have the exclusive right to produce and publish issues of a newspaper or periodical.

(2) For the purposes of this section, the word "taxpayer" in section 173 shall be deemed to include a publisher.

(3) The Minister, at the request of a publisher, shall enter into an agreement with that publisher pursuant to section 173 for the purpose of having determined by the Court the interpretation of clause 19(5)(a)(ii)(F) in relation to one or more issues of proposed issues of a newspaper or periodical that that publisher has or proposes to have the exclusive right to produce and publish in Canada."

(2) The said Act is further amended by adding thereto immediately after section 19.1, added by subsection (1), the following:

"19.2 (1) Subject to subsection (2), in" "

5. *Page 2:* Strike out lines 32 to 34 inclusive and substitute therefor the following:

"on the first day of January, 1977.

(2) Subsection 3(2) shall come into force on such day as may be fixed by a motion taken up and considered by the House of Commons that is adopted by the House and concurred in by the Senate pursuant to subsections (3) and (4).

(3) If a motion taken up and considered by the House of Commons pursuant to subsection (2) is adopted by the House, with or without amendments, a message shall be sent to the Senate informing the Senate that the motion has been so adopted and requesting that the motion be concurred in by the Senate.

(4) The Senate shall, within the first fifteen days next after receipt by it of a request from the House of Commons pursuant to subsection (3) that the Senate is sitting, in accordance with the Rules of the Senate, take up and consider the motion adopted by the House of Commons that is the subject of the request.

(5) If the Senate, pursuant to a request from the House of Commons, concurs in a motion adopted by the House as provided in this section, subsection 3(2) shall come into force on the day that is specified in the motion or on the day on which the Senate concurs in the motion, whichever is the later."

During the course of your committee's hearings a question arose as to the effect of Bill C-58 and the "commercial deletion" policy of the CRTC on relations with the United States. While your committee considers that the strain on Canada-U.S. relations which has arisen is not an area which is within its terms of reference on this bill, it believes that it cannot let the matter pass without directing the attention of the government to the evidence before the committee on these points.

Attached as an appendix to this report is a list of parties who submitted briefs, including those who also appeared before your committee in the course of its examination of Bill C-58.

Respectfully submitted,

SALTER A. HAYDEN,
Chairman.

(*Appendix*)

List of submissions received with regard to Bill C-58, "An Act to amend the Income Tax Act".

SUBMITTED BRIEFS AND APPEARED	Date of Appearance
1. MD Publications (Canada) Limited	May 6, 1976
2. Maclean-Hunter Limited	May 12, 1976
3. Graphic Arts Industries Association	May 12, 1976
4. Canadian Periodical Publishers' Association	May 12, 1976
5. Time Canada	May 13, 1976
6. Saturday Night	May 19, 1976
7. Canadian Association of Broadcasters	May 19, 1976
8. Institute of Canadian Advertising	May 20, 1976
9. WBEN, Inc.; Capital Cities Communications Inc.; and Taft Broadcasting Company	June 9, 1976
10. Channel Seventy Nine Limited, (CITY-TV)	June 9, 1976
11. KVOS-TV (B.C.) Limited, Vancouver	June 9, 1976
12. Advertising Agency Association of British Columbia	June 9, 1976
13. Association of Canadian Advertisers	June 10, 1976
14. Canadian Radio-Television Commission	June 16, 1976

Number of witnesses in support of the above: 47

SUBMITTED BRIEFS BUT DID NOT APPEAR

Andy McDermott Sales Ltd.

Catton Buckham Advertising Agency Ltd.

CKCO-TV Kitchener

Hyland Radio-TV Limited

Stovin-Byles Television Limited

Okanagan Valley Television Company Limited

Monarch Broadcasting Co. Ltd. (CHAT Radio-TV, Alberta)

Tele-Capital Ltd. of Quebec City

CKSO-TV and Radio of Sudbury

Council of Forest Industries of B.C.

British Columbia Television Broadcasting System Ltd.

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

Senator Hayden moved that the report be placed on the Orders of the Day for consideration on Monday next.

Motion agreed to.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today, it do stand adjourned until Monday next, June 28, at 8 o'clock in the evening.

Honourable senators, in deciding to move the adjournment of the Senate until Monday evening at 8 o'clock, we had to consider the transportation difficulties now being experienced in this country and the difficulty some senators might find in trying to reach Ottawa for a sitting on Monday afternoon. There is much work for the Senate to do next week and under ordinary circumstances it would have been preferable to sit Monday afternoon. It may therefore be necessary for us to sit late on Monday evening and to extend the sitting hours on Tuesday and Wednesday.

On Monday we shall proceed with third reading of Bill C-20, respecting citizenship; with consideration of the report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-58, to amend the Income Tax Act, which was presented today; and we shall continue the second reading debate on Bills C-93 and C-94.

Bill C-68, to amend the Medical Care Act, and Bill C-88, to amend the Canadian Wheat Board Act (No. 2), will probably pass the Commons today and we shall therefore have to deal with those two bills early next week. In addition, it is possible that Bill C-84, which was given second reading and referred to committee in the House of Commons yesterday, could come to us by Wednesday next.

The committee schedule for next week is as follows: on Tuesday the Standing Senate Committee on Agriculture will meet at 10 a.m. to further consider the question of crop insurance; the Special Joint Committee on the National Capital Region will meet at 3.30 p.m., and the Joint Committee on Regulations and other Statutory Instruments has called a meeting for 8.30 p.m. On Wednesday the Special Committee on Science Policy has scheduled a meeting for 3.30 p.m.

Senator Flynn: Would the Deputy Leader of the Government explain whether, in view of all those bills which are likely to reach us, or which pass the other place, it is foreseen that the session will be prorogued if not officially at least unofficially until the fall.

Senator Perrault: No position has yet been taken with respect to when parliamentary activities may safely be predicted to resume in the fall. Indeed, it is impossible at this time to give an estimate of the prorogation date or the summer adjournment date. As honourable senators are aware, a number of key bills are now in discussion in committees of the House of Commons and it is not possible to estimate when they will be available in the other place for third reading. Consequently, it is difficult to establish a schedule here.

Senator Flynn: We can expect to receive Bills C-68 and C-88, and Bill C-84 is the only other bill which requires, from the government's viewpoint, passage before prorogation.

Senator Perrault: It is unlikely that it will be possible to complete our work by the end of next week.

Motion agreed to.

TRANSPORTATION

DISRUPTION OF AIRLINE SERVICES IN CANADA—QUESTION

Senator Flynn: Has the Leader of the Government anything new to report on the air travel situation in Canada?

Senator Perrault: Honourable senators, a number of conversations have been held in recent hours and it is very likely that a statement will be made by the Minister of Transport in the other place within the hour. The text of that statement will also be read in this chamber. Honourable senators will then have a better idea of the initiatives which are presently under way. Indeed, the text of that statement should be here in approximately 25 minutes.

Senator Flynn: Would the leader say whether the government contemplates any special legislation?

Senator Perrault: Honourable senators, the situation is extremely important to all parts of Canada and it is hoped that legislation will not be necessary in order to resolve the problem and get the planes flying again. It is hoped that the statement to be made today will go a fair distance toward a solution.

● (1420)

THE ESTIMATES

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

The Senate resumed from yesterday the debate on the motion of Senator Carter for the adoption of the report of the Standing Senate Committee on National Finance on the Supplementary Estimates (A) laid before Parliament for the fiscal year ending March 31, 1977.

Hon. Allister Grosart: Honourable senators, we are considering a report of the Standing Senate Committee on National Finance on what is probably the most extraordinary supplementary estimate in Canadian history. I say that because the estimate looks to the appropriation bill which is now before us on first reading, which will provide for implementation of a major innovation in Canadian policy by a loan item in supplementary estimates.

To the best of my knowledge this device, this devious device, has never been used before. The National Finance Committee has objected before to minor uses of this principle of legislation by supplementary estimates but never, I am sure, did the committee anticipate it would be faced with a suggestion that major government policy should in future be made by a loan item in supplementary estimates. This is a case of where estimates are placed before us so carelessly that the normal courtesies of relating the amounts to previous estimates are not observed. To my mind this is another example of the attitude of this government towards the rights of Parliament. It is an attitude of

erosion, by almost any device that can be thought of, of the basic rights of the Parliament of Canada in respect of discussions upon major policy decisions.

I say it is a major policy decision. It is not that I object to the policy, but it is a major policy decision when the Government of Canada decides to raise revenues by a national lottery. This is something that has not happened in our history before. It is a matter which raises issues of deep emotional concern to many Canadians. I do not share all those emotional concerns. Indeed, I might say that I have a good deal of sympathy with the basic principle of raising public revenues to assist in paying off the deficit for the Olympic Games because I have been impressed by the arguments put forward that the benefits of the Olympic Games will extend far beyond Montreal, the province of Quebec and Kingston. They will extend to all Canadians. I agree with that. I agree fully with the concept that all Canadians should help to pay off that deficit.

The government decided that it would not take that approach. The government made a clear statement that it would not, out of public funds, help to pay off this deficit. It has changed its mind. I see no objection to the government changing its mind, yet in the discussions we heard in defence of these supplementary estimates yesterday from Senator Langlois and Senator Perrault we had what I regard as the supreme example of defenders of an indefensible principle protesting too much. A principle we generally recognize is that when an argument is weak, rhetoric usually becomes louder, longer and more irrelevant. Certainly in listening to the defence of this government policy last night, I was convinced that this was a clear case of that.

For example, one of the arguments put forward so strongly was that this is not a reversal of government policy. Well, of course it is. The argument was needless. If the government has changed its mind, there is nothing wrong with the government's saying so. The government had decided earlier, for its own reasons—perhaps in an attempt to hold down the expenditures—that it would not raise revenues to pay the deficit. So, it has changed its mind, and there is nothing wrong with that. Yet the fact of the matter is that the foolish statement made by the government at the start is the cause of many of the problems that have arisen. If the government at the start had said "If a benefit can be shown for the whole of Canada as the result of the Olympics, then it would appear to make sense for the public of Canada generally to support the Olympics by helping with the deficit or otherwise", I would have no objection to that. That would have been the sensible thing to do. However, the government made this foolish statement, and it trapped itself and the Olympics into an impossible position.

It may very well be argued that many of the problems which have arisen at the Olympic site are due substantially to that foolish government decision. The delays, the pressures from various unions and contractors, and the doubts that arose in the minds of the public and all over the world as to whether the Olympic site would be finished on time, were substantially due to the government's statement, "We are not going to bail you out." The Government of Canada indicated they would let the Olympics be delayed. The Government of Canada indicated they would let them go broke. That impression got around the world that this was the policy of the Government of Canada, which it was. Thankfully, the government has now changed its mind.

Instead of being faced with a clear declaration that the government has changed its mind for very good reasons, we are faced with this piece of utter hypocrisy which is Bill C-44, the subject of the report now before the house. I say "hypocrisy" because the purpose of the supplementary estimates is almost entirely to assist in relieving the pressure of the deficit on the City of Montreal and the Province of Quebec. Again, I say I approve of that, but why this device? Why are we tacking on to the 82.5 per cent, which is going to this purpose, these peripheral sweeteners of 12.5 per cent going to the provinces—if the provinces say they will take it—and 5 per cent going into a federal government fund? If it were not hypocrisy, surely the government would have said, "We are creating this new corporation for the sole purpose of helping defray the Olympics deficit". These amounts of 12 per cent and 5 per cent on the periphery are clear evidence of the utter hypocrisy of the whole approach.

We then had a stirring defence of the legality of this bill. It is almost certainly legal. When I heard the rhetoric, I began to wonder when emphasis on the legality of an action, public or private, became a major criterion in deciding whether that action is right or wrong.

There was some question raised about constitutionality, and understandably so. Here again it was the government's muddling which caused this. Honourable senators will remember that at the time when the Criminal Code was amended to permit lotteries, it was clearly understood that it was permission to the provinces to conduct lotteries under certain circumstances. The main proviso is that no province conducting such a lottery would be able to sell tickets in another province, without the permission of that province—a very wise proviso.

● (1430)

The assumption then arose that the government had transferred this whole field of lotteries to the provinces. It was merely an assumption. I completely agree that the assumption had no apparent base in constitutional law. But what has happened is that the government now says, "In spite of the fact that we honoured the right of any given province to deny to another province the right to sell tickets for a lottery for any purpose in the given province, we, the government, will now impose a total lottery on all provinces." In other words, the government now says that in spite of what the President of the Treasury Board, the Honourable Mr. Chrétien, called the liberal generosity of the government, the government is withdrawing its so-called generosity and under the conditions indicated in the supplementary estimates (A) the federal government will now, as I have said, impose a total lottery on all provinces. This means that no province will any longer have the right to refuse to sell tickets for a federal lottery which appears to have a specific purpose related to some other province or for any other reason.

That is why the constitutional issue has been raised, although, as I have said, it does not appear to have substance. And yet we had this rhetoric on the subject, which

indicates to me that possibly the defenders of the government's position are protesting just a little too, too much.

Naturally, we have had the old excuse given that the type of legislation which this will be is necessary. All that need be said on that score is what has been said over and over again: namely, that there has never been an occasion that anybody can recall of the rights of an individual or the rights of Parliament being impinged upon by an executive when the reason given was not "necessity."

There is no necessity here whatsoever. The minister himself was asked if he looked at some of the alternatives. In one breath he said, "We made certain tries. We tried to get the opposition parties to agree first of all to a bill going through in two or three days. We also tried to get agreements from the provinces, but were not able to. So the government decided to go this way." On the other hand, the President of the Treasury Board, when asked if he had looked at other alternatives, said, "No, we did not look at any other alternatives." The excuse was that this was a last-minute situation and that, as the summer recess came along, they were suddenly faced with this great problem. Well, the government was not suddenly faced with the problem at all. It has been there for months. The government has been fully aware of it. The government hesitated to make the decision because of the earlier foolish decision, and it spent months in trying to backtrack out of an impossible position with the result that it has arrived at a point which would appear to be an insult to the intelligence of members of Parliament—this excuse that "We are so close to the deadline that we have to resort to a device never resorted to before in Canadian history."

Another reason given for the legislation is a principle of the bill which has received great support: the assistance it will give to amateur sport. I simply mention that that is merely a sweetener.

The fact of the matter is that every single excuse given for the government's reversal of its decision could have been used to make the first decision the sensible one. One of the reasons given is the national benefits which will accrue. Well, that aspect has always been there. If the government was not aware that the holding of the Olympics in one part of Canada would benefit all of Canada, it was not thinking very hard. We were told that the labour problem was one of the reasons for the crisis. Well, the labour problem was there at the time the statement was made that the government would not fund this deficit. Another reason we were given was "this dreadful inflation." Inflation was galloping at the time the government announced its decision not to fund this deficit. And, just to reiterate, the needs of amateur sport have been there for a long, long time.

So every one of the arguments produced now in support of this new decision, and this irresponsible way of implementing it, were there at the time; so that the problem must be laid right at the door of the government's incompetence, bad planning and its assumption that no matter how many mistakes it made, no matter how badly it messed up the situation, the officials, or somebody, would find a way or a device which would force Parliament to accept this method at the last minute.

Well, some provinces object; they do so on very good ground. They object on the ground that they do not know what will happen. Here we have a major government policy extending over at least three years, and perhaps perpetually. Nobody knows. There is nothing here at all so far to tell us, except one personal assurance by the President of the Treasury Board, that this is not a policy which will go on forever, that Loto Canada will not continue indefinitely whether the provinces agree or not. It is fair to say that the minister has emphasized over and over again that he is calling a meeting of the appropriate ministers in September to discuss the matter. But he has made it quite clear that this is a field in which the federal government regards itself as having complete competence; and once again we have from the government the arrogant statement, which has broken up every federal-provincial conference, the arrogant statement, "This is the way we will do it. This is the way we can do it. We are merely consulting you and, regardless of what you may feel about it, we will do what we think we want to do." I say that this has been the approach over and over again, and as anyone who has read the history of federal-provincial conferences will agree, it is this approach which has caused the dangerous confrontation in our federal system today between the central power and the provinces.

The bill before us, when it is passed and given royal assent, will be an Act of Parliament. It will be argued, of course, that "this is an Act of Parliament," but I think anybody who has attended the meetings of our National Finance Committee, or similar committees elsewhere, must agree that it is a dangerous and devious device to use supplementary estimates at any time to introduce major government policy without the normal safeguards that are present in a bill in which policy is spelled out in detail and can be discussed in detail. I say it is dangerous and I say it is devious when ministers or their officials can come before a committee—as they came before the Miscellaneous Estimates Committee of the Commons, and as they came before our National Finance Committee—and merely say what their intentions are. But when Parliament has a proper bill before it, then Parliament is in a position to say, "We are now deciding to pass a law the substance of which is as follows."

The appropriation bill, as it comes before us, gives extraordinary powers to the government to make regulations by order in council. There is no indication of that in the report of the committee. We are asked to approve the report of the committee to the effect that the government is prepared to lend, on a loan vote, $5 million, and that provision is to be made:

● (1440)

> for the establishment of an account in the Accounts of Canada to be known as the National Lottery Account to which shall be credited the net revenues of Loto Canada Inc. paid to the Receiver General for Canada; and
>
> to authorize payment out of the Consolidated Revenue Fund—

and so on. There is not a word here or in the bill to say what this crown corporation will consist of, or how many directors it will have.

As a purely incidental side issue, in committee the minister said, "I would like to introduce Mr. Cousineau. He is going to be the president of the new corporation." How-

ever, there is not even provision here for the office of president.

The minister also stated, "Oh, the order in council has been approved." This statement was made to the committee in the other place. What was he talking about? He was talking about the order in council under the legislation that is only before us at this moment. The order in council had been approved and passed. But what is in the order? We do not know.

Honourable senators, we are asked to approve the report of the committee which, I am glad to say, did raise doubts on some of these matters, particularly on the ground of methodology, of which this whole bill provides another devious example.

We have, I suppose, no alternative. There is nothing—nothing at all—that we can do at this stage, just as there was nothing the committee of the other place could do since, under the rules, it could not change the regulations. It did make one amendment but, not having the regulations before it, the committee of the other place said, "We recommend that you do not carry this thing on beyond three years until you bring in new regulations." Surely nothing could indicate more clearly the affront to Parliament of this kind of device, and the absurdity of it, than the history of the matter given in the report that is before us.

Hon. Chesley W. Carter: Honourable senators—

The Hon. the Speaker *pro tem:* I must inform honourable senators that if the Honourable Senator Carter speaks now, his speech will have the effect of closing the debate on the motion for adoption of this report.

Senator Carter: Honourable senators, we have had a very wide-ranging debate on supplementary estimates (A) in general, and on Loto Canada in particular. I think that everything that needed to be said, or that was worth saying, has already been said, and so I rise now only to reply briefly to two or three points.

One of the main criticisms voiced was with regard to the method chosen by the government to deal with this matter—that is, by way of supplementary estimates, rather than a bill. While the method chosen is certainly not acceptable to the Standing Senate Committee on National Finance, nor even to this chamber, I think it is fair to point out that it is a method for which there are a number of precedents, it having been used on some 25 previous occasions. I should also point out that the government could have proceeded without referring the matter to Parliament at all. I think the government would have preferred to introduce a bill on this matter, but in view of the fact that the time available was limited, and of the fact that there was no agreement on the time to be allotted for debating the measure in the other place, the government was left with the only alternative available to it that would give Parliament a chance to pronounce on this question. That is why proceeding by way of supplementary estimates was chosen.

Certainly it is the duty of the Opposition to criticize government policy, and, to some extent, it is the duty of every one of us; but when we criticize government policy I think we should do so in the context of the times and conditions prevailing when a policy decision is made.

[Senator Grosart.]

When this particular policy decision was made several years ago, honourable senators will recall that there was reason to believe that widespread opposition existed among the public of Canada at large to any contribution to the Olympic Games from the federal treasury. In addition, there were a number of assurances given to the government that the Olympic Games would be self-financing. In the light of these assurances and these conditions, therefore, the government embarked upon methods and devices for assisting in voluntary ways, as a result of which we have the Olympic coins and Olympic stamps programs, and a number of other measures adopted by the government with the object of avoiding a charge upon the public treasury. In the interval views changed, and today there is a swing in public opinion which would seem to favour a direct contribution from the federal treasury.

I might say in passing that Loto Canada is an extension of the self-financing methods embarked upon by the government in the first place, and the minister himself gave a commitment when he appeared before the committee, within the limits of how far he is able to go in committing a successor or a new government, to bring the matter before Parliament when a change in policy is proposed.

Honourable senators, as I said earlier, I think everything useful has been said on this matter, and I see no merit in repeating arguments that have already been made. Therefore, I would like to conclude the debate by thanking all honourable senators who have participated for their interesting and valuable contributions.

Motion agreed to and report adopted.

TRANSPORTATION

DISRUPTION OF AIRLINE SERVICES IN CANADA

Senator Perrault: Honourable senators, with leave of the Senate, I should like to make a short statement about the safety aspects of bilingual air traffic control.

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

Hon. Senators: Agreed.

Senator Perrault: The Honourable the Minister of Transport has just announced the appointment of Mr. Justice W. R. Sinclair, of Edmonton, and Mr. Justice Julien Chouinard, of Quebec City, to head the commission of inquiry into safety-related and other aspects of bilingualism in air traffic control in the province of Quebec.

Mr. Justice Sinclair is a judge of the appellate division of the Supreme Court of Alberta. He was admitted to the Bar of Alberta in 1949 and was in private practice until 1954 when he joined the law department of Canadian Gulf Oil in Calgary. From 1959 to 1968 he was a partner in the Edmonton law firm of Emery, Jamieson and Company. In 1968 he was appointed a judge of the trial division of the Supreme Court of Alberta, and received his present appointment in 1973.

● (1450)

Mr. Justice Chouinard is a judge of the Superior Court of Quebec. He was admitted to the Bar of Quebec in 1953 and practised law in Quebec City before being appointed deputy minister of justice of the province. He was later

appointed secretary-general of the executive committee of the provincial government. He was named to the Bench last year. Mr. Justice Chouinard is a member of the council in the faculty of law at Laval University.

The new commissioners were named to replace John Keenan of Montreal who resigned on June 7 when he became the subject of controversy and felt he could not carry out his mandate.

The Honourable Mr. Lang, Minister of Transport, as honourable senators will recall, first announced the appointment of a commission of inquiry on May 12 last.

I can advise the chamber that the minister is presently contacting the presidents of CALPA and CATCA—the Canadian Air Line Pilots' Association and the Canadian Air Traffic Control Association—to invite them to meet with him on this subject later this day.

APPROPRIATION BILL NO. 4, 1976

SECOND READING

Senator Langlois moved second reading of Bill C-94, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

He said: Honourable senators, the bill before us today, Appropriation Bill No. 4, 1976, provides for the release of the whole of supplementary estimates (A) for 1976 of $5 million. These supplementary estimates were tabled on June 8, and discussed in committee on June 17 with the President of Treasury Board and his officials.

These supplementary estimates propose the creation of Loto Canada and provide a loan of up to $5 million from the Minister of Finance as a working capital advance. It is intended that this loan be repaid by December 31, 1976. This new crown corporation will commence operations in August of 1976 and will create, manage and operate a national lottery.

If honourable senators wish any further explanations concerning this bill, I shall be glad to supply them.

Senator Grosart: Honourable senators, I think it will be obvious that any comments I might wish to make on the bill now before us have already been made. I deliberately made my comments during consideration of the report of the National Finance Committee, so that that report could be adopted, according to our rules, before the bill itself was presented. I therefore ask that my comments previously made be taken as applying to this bill, and add that I have not changed my mind in any way since seeing the bill.

Motion agreed to and bill read second time.

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

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

APPROPRIATION BILL NO. 3, 1976

SECOND READING—DEBATE ADJOURNED

Senator Langlois moved second reading of Bill C-93, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

He said: Honourable senators, the bill before us now, Appropriation Bill No. 3, 1976, provides for the release of the balance of the main estimates for 1976-77 amounting to $12,727 million.

These estimates were tabled on February 19, and referred to the Standing Senate Committee on National Finance the same day. Interim supply for 1976-77 was approved by Appropriation Act, No. 2, 1976. The bill which provided for the expenditures for the month of April, May and June, released a general proportion of three-twelfths for all votes plus additional proportions for some 35 votes.

The main estimates were discussed with the President of Treasury Board and his officials on May 20 in the Standing Senate Committee on National Finance.

The previous appropriation acts passed in respect of these estimates for 1976-77 were Appropriation Act No. 2, 1976, which granted interim supply, as I have already said, for April, May and June, including the 35 additional proportions based on the main estimates for 1976-77, amounting to $4,970,732,370.57, and Appropriation Act No. 3, 1976, which would grant full supply for the balance of the main estimates for 1976-77 amounting to, as has already been mentioned, $12,727,771,390.43. In addition, honourable senators, there is the appropriation bill to which we have just given second reading, and which is based on supplementary estimates (A) for 1976-77, in the sum of $5 million, making the total estimates to be voted to date $17,703,503,761.00.

The form of the bill is the same as that passed in previous years, and it contains no additional borrowing authority.

Honourable senators, I think I have covered the important features of this bill, and if you wish further explanation on any matter it can be supplied on request.

Senator Grosart: Honourable senators, I take it that there is no dire necessity for this supply bill to be passed immediately. Will next week do?

Senator Langlois: Yes.

Senator Grosart: Therefore, I move that the debate be adjourned.

On motion of Senator Grosart, debate adjourned.

[*Translation*]

ST. JOHN THE BAPTIST DAY

Senator Perrault: I am pleased to greet our French-Canadian fellow citizens on the occasion of St. John the Baptist Day.

[*English*]

The Senate adjourned until Monday, June 28, at 8 p.m.

THE SENATE

Monday, June 28, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND (NO.2)—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-88, to amend the Canadian Wheat Board Act (No. 2).

Bill read first time.

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

Senator Perrault, with leave of the Senate, moved that the bill be read a second time at the next sitting.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Order of the Administrator under the Anti-Inflation Act, pursuant to section 17(3) of the said Act, Chapter 75, Statutes of Canada 1974-75-76, dated June 22, 1976, regarding the reference of the collective agreement between the International Nickel Company of Canada, Manitoba Division, and the employees represented by the United Steelworkers of America, Local 6166, and letter thereon from the Administrator to the Minister of National Revenue.

Copies of Reports of the Anti-Inflation Board to His Excellency the Governor General in Council reporting its reference to the Administrator of the Anti-Inflation Act of—

(1) Collective agreement between the Sudbury District Roman Catholic Separate School Board and the employees represented by the Canadian Union of Public Employees, Local 1369;

(2) Collective agreement between the Wentworth County Board of Education, Hamilton, Ontario and the employees in the secretarial, clerical group;

(3) Certain proposed increases in compensation between the Prescott and Russell County Roman Catholic Separate School Board and its executive employees.

Copies of Order in Council P.C. 1976-1576, dated June 23, 1976, appointing the Honourable W. R. Sinclair and the Honourable Julien Chouinard, Co-Commissioners, under Part I of the Inquiries Act, for the purpose of inquiring into the safety of the introduction of bilingual IFR Air Traffic Services in the Province of Quebec.

Report of the Auditor General on the examination of the accounts and financial statements of the National Battlefields Commission for the fiscal year ended March 31, 1975, pursuant to section 12 of An Act respecting the National Battlefields at Quebec, Chapter 57, Statutes of Canada, 1907-08, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Capital Budget of the National Battlefields Commission for the fiscal year ending March 31, 1977, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-1089, dated May 11, 1976, approving same.

Report of Uranium Canada, Limited, including its accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report of the President of the National Research Council of Canada for the fiscal year ended March 31, 1976, pursuant to section 16 of the National Research Council Act, Chapter N-14, R.S.C., 1970.

Report of the Science Council of Canada for the fiscal year ended March 31, 1976, pursuant to section 19 of the Science Council of Canada Act, Chapter S-5, R.S.C., 1970.

Report of the Unemployment Insurance Advisory Committee for the year ended December 31, 1975, pursuant to section 109(3) of the Unemployment Insurance Act, 1971, Chapter 48, Statutes of Canada, 1970-71-72.

Capital Budget of the National Harbours Board for the year ended December 31, 1975, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-988, dated April 27, 1976 approving same.

Copies of Order in Council P.C. 1976-1588, dated June 28, 1976, appointing the Honourable W. R. Sinclair of Edmonton, the Honourable Julien Chouinard of Quebec City, and the Honourable D. V. Heald of Ottawa, Co-Commissioners, under Part I of the Inquiries Act, for the purpose of inquiring into the safety of the introduction of bilingual IFR Air Traffic Services in the Province of Quebec, together with Memorandum of Understanding between The Minister of Transport and The Canadian Air Traffic Control Association (CATCA) and The Canadian Air Line Pilots' Association (CALPA), signed at Ottawa, on the 28th day of June, 1976.

INTERNAL ECONOMY

REPORT APPROVING SALARY REVISIONS TABLED

Senator Laird: Honourable senators, I have the honour to table a schedule of authorized salary revisions for certain Senate positions, effective April 1, 1976, as approved by the Standing Committee on Internal Economy, Budgets and Administration, at its meeting of Thursday, June 17, 1976.

TRANSPORTATION

RESUMPTION OF AIRLINE SERVICES IN CANADA—APPOINTMENT OF COMMISSION OF INQUIRY

Senator Flynn: Would the government leader elaborate a little more on the memorandum of understanding or agreement reached between the Minister of Transport and the Canadian Air Traffic Control Association and the Canadian Air Line Pilots' Association, which he tabled?

Senator Perrault: Honourable senators, the document is rather lengthy, but if I am permitted perhaps I can touch on three or four of the highlights of the memorandum of understanding. I promise not to be too lengthy.

It has been agreed that the public commission of inquiry which has been announced should be composed of three judicial appointees, the third being acceptable to CATCA—that is, the Canadian Air Traffic Control Association—that a prerequisite to the expansion or introduction of any bilingual air traffic service be a unanimous report of the commission declaring the purported expansion or introduction to be consistent with the maintenance of current safety standards in Canadian air operations.

Senator Flynn: A unanimous decision?

Senator Perrault: A unanimous decision of the three commissioners. Further, that the terms of reference now contained in Order in Council P.C. 1976-1576 should include a provision to the effect that "the commissioners shall append to their reports any statement on the aspects of the inquiry reported upon, received from CATCA or CALPA within a specified period of time designated by the commission"; that the terms of reference shall include a further provision to the effect that "the commissioners shall not in any of their reports indicate that safety has been demonstrated unless they can justify beyond a reasonable doubt why any contrary view expressed by CATCA or CALPA should not prevail."

And then, insofar as the specially appointed professional advisers are concerned, Transport Canada and CATCA will submit a joint list of appropriate controller advisers to the commission; Transport Canada will submit before July 1 a recommendation to the Privy Council which the government will process expeditiously and publish in the *Canada Gazette* at the earliest possible date as an air navigation order with regard to the use of language in the air, and Transport Canada undertakes to pursue the enforcement thereof; and that following the tabling of the final report of the commission in Parliament, the government will present a resolution to the House of Commons seeking concurrence therein in a free vote.

● (2010)

The document is signed by the Honourable Otto Lang, Minister of Transport; J. M. Livingston, President, Canadian Air Traffic Control Association; and K. A. Maley, President, Canadian Air Line Pilots' Association.

Senator Flynn: Would the Leader of the Government explain the consequences of a non-unanimous decision by the commissioners?

Senator Perrault: It is my understanding that if the report is not unanimous no action would be taken to introduce bilingualism at the main airports in the Montreal area.

Senator Flynn: In other words, you are giving a veto to any one of the commissioners.

Senator Perrault: Honourable senators, that may be the honourable senator's interpretation. I have not had time to adequately digest all the supporting documentation. Honourable senators may feel free to draw their own conclusions at this point as to the ramifications of the memorandum of understanding which has been achieved.

Senator Flynn: I respect the opinion of the Leader of the Government, but I do not see what else it can mean. Furthermore, do I understand that the Senate and the House of Commons will have to give this approval, or will it be only the House of Commons?

Senator Perrault: The memorandum of understanding, as it exists at the present time, makes reference only to a free vote in the House of Commons.

Senator Flynn: What is a free vote?

Senator Perrault: I hope to be in a position shortly to clarify the position of the Senate in the proposed process.

Senator Flynn: What is the understanding of the Leader of the Government as to what a free vote in the House of Commons would be?

Senator Perrault: I assume that the house leaders there would make known to their followers the fact that party discipline and usual party voting procedures would not apply with respect to this particular vote.

Senator Flynn: Would the Leader of the Government agree that the minister might have said that he has negotiated this agreement with a knife at his throat?

Senator Perrault: Honourable senators, the past two weeks have not been easy for the air travellers of Canada, and they have not been easy for those in government. The paramount concern of the government in this entire dispute has been for the safety of air travellers in Canada. That has been, and must remain, the paramount consideration.

Senator Flynn: Of the government.

Senator Perrault: It is my personal view that there have been regrettable statements made by a number of people across the country on this subject and I think a number of these statements have been very unfortunate. Surely the question is not basically a matter of language, but a matter of the safety of air travellers in Canada. The number one concern must be air safety and if, as many proponents of bilingualism at the Montreal airport state, the present high standards of air traffic safety can be maintained and even enhanced by the introduction of the French language under certain circumstances in Montreal, then, of course, the Government of Canada is interested in supporting the

concept. The government is concerned with improving air safety standards in this country but the idea, which has been propagated by some, that even the study of the subject must be rejected, has no support at all on the part of the government.

Senator Flynn: Would the Leader of the Government agree that this is the first time the government has been forced to negotiate in the face of an illegal strike and that such a weapon should never have been allowed to be used? This is a precedent. I am not criticizing the government. I am very happy that some kind of agreement has been reached to resume air services for Canadians, but will not the government leader agree that it is a very sad situation when illegality is allowed to be used to force this type of agreement?

Senator Perrault: In reply to the Leader of the Opposition, there are precedents in the history of Canada—

Senator Flynn: I don't remember.

Senator Perrault: And let me state also—

Senator Croll: The Post Office.

Senator Perrault: Let us all be aware of the fact that the ultimate disposition of the illegality or legality of certain actions and possible penalties has yet to be determined. At the present time efforts are being made to get the aircraft flying and the travelling public's inconvenience ended.

Senator Flynn: When is air service to start?

Senator Perrault: There may be other statements made later on this matter about the legality or illegality of certain actions taken.

Senator Flynn: When are the air services to resume?

Senator Perrault: It is my understanding that the air services are now operating once again—perhaps not fully operational on all routes in Canada, but the airlines are in the process of resuming flights across Canada.

Senator Forsey: Honourable senators, as a supplementary, could I ask the leader of the government whether I am to understand that the memorandum of agreement will be attached to today's proceedings? I think it would be very useful if it could be.

Senator Perrault: In reply, it was my intention to merely table this document. However, if honourable senators would like the memorandum of understanding as an appendix to today's proceedings, there is certainly no objection from the government.

Senator Forsey: I think it would be useful.

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

Hon. Senators: Agreed.

(*For text of memorandum of understanding, see appendix p. 2276.*)

Senator Smith (Colchester): Honourable senators, I wonder if I could ask the Leader of the Government about a clause which, it seems to me, has some bearing on something being proved beyond a reasonable doubt, but in the reading of it I was not quite able to comprehend exactly what it meant. I wonder if the Leader of the Government would be kind enough to elaborate on that particular paragraph.

Senator Perrault: The honourable senator may be referring to the following paragraph which demonstrates some rather interesting phraseology:

> That the terms of reference should include a further provision to the effect that "the Commissioners shall not in any of their reports—

Is this the paragraph?

Senator Smith: It sounds like it.

Senator Perrault:

> —"the Commissioners shall not in any of their reports indicate that safety has been demonstrated unless they can justify beyond a reasonable doubt—

Whatever that may be.

Senator Walker: A murder case!

Senator Perrault:

> —why any contrary view expressed by CATCA—

The controllers.

> —or CALPA—

The pilots.

> —should not prevail".

Senator Flynn: With regard to resumption of air services, have those pilots who fly to Paris, or any other place in the world where the language of the country is not English, decided to resume flying?

Senator Perrault: There is no indication that the pilots will refuse to land at Paris, where French is employed as a local language; in Belgium, where Dutch, French and some Spanish are permitted as local languages; in Switzerland, where Italian, French and some German are permitted as local languages; or Tel-Aviv, where Hebrew and English are permitted in air traffic control.

Honourable senators, in saying that, there could be notable differences between flying conditions in Europe and those which exist in North America. Surely that is for the commission of inquiry to determine.

FOREIGN AFFAIRS

RESTRICTIONS ON SPECIAL PASSPORTS—QUESTIONS

Senator Lang: I would like to direct a question to the Leader of the Government. My question arises out of a report in the *Globe and Mail* of June 23, which reads:

> New passport stamp bans travel by MPs. in unrecognized lands.
>
> The Government has adopted a policy of stamping certain passports as being invalid for use for travel to Taiwan, Rhodesia, North Korea and Namibia, an External Affairs spokesman said yesterday.
>
> The spokesman said the diplomatic and special passports—those given to MPs. when travelling on government business—are stamped to make sure there is no impression given that Canada recognizes the existing governments in those areas.

● (2020)

I was in South-West Africa last year. I do not know how many honourable senators might be considering travelling

in Taiwan, Rhodesia or North Korea, but if that report contains any semblance of truth it has an ominous tone, the kind of tone one would expect out of a police state and not Canada.

I ask the Leader of the Government: Is it government policy as expressed in this news report and, if so, does it prevent members of Parliament holding the green special passports from travelling in Taiwan, Rhodesia, North Korea or South-West Africa? If so, can a member of Parliament surrender his green special passport and obtain the blue passport which is issued to all Canadians, thereby enabling himself to travel in those countries?

I think it is important to find out whether there is some type of limitation being placed, or attempted to be placed, upon us as members of Parliament. When I use the term "members of Parliament" I include, of course, honourable senators.

Senator Perrault: Honourable senators, first of all, I thank Senator Lang for giving me prior notice of his question. He asked first if this policy means that senators and members of Parliament holding green special passports can no longer travel in Rhodesia, Taiwan, North Korea, and South-West Africa.

I have made inquiries of the Department of External Affairs, and am informed that under the present regulations of the department diplomatic and special passports are issued valid for travel to all countries with the exception of Rhodesia, Taiwan, North Korea and Namibia, which are not recognized by the Canadian government.

Secondly, Senator Lang asked whether a senator or member of Parliament can surrender his green special passport for the regular blue passport, and travel in these countries.

Regular blue passports are valid for travel to all countries without geographical restriction. All members of Parliament, whether they serve in the Senate or the House of Commons, can apply for an ordinary passport in the same way as any other private Canadian citizen, although their special passports would have to be surrendered temporarily to the Department of External Affairs while they are in possession of an ordinary passport.

Senator Grosart: I wonder if the government leader would inform the Senate as to the authority of the Department of External Affairs to make special regulations in respect of passports held by members of Parliament. Under what authority does the Department of External Affairs do this?

Senator Perrault: Honourable senators, I can only undertake to seek further clarification from the Secretary of State for External Affairs in respect of that question. That information is not available to me this evening. However, it is understood that all nations have the sovereign right to determine where their citizens shall travel under official auspices, and with government passport documentation. Surely, this is a right held by most countries of the world.

Senator Forsey: Honourable senators, as a supplementary may I ask the Leader of the Government if he is aware that the passport regulations, or certain of them, at all events, and the authority by which they are established or passed, that this question has been before the Joint Committee on Regulations and other Statutory Instruments and that there have been some acerbic comments by counsel to that committee and by the committee itself on the form in which the regulations are drafted? We are, I think, awaiting a reply from the department on this matter, because it seems to members of the committee, I think I may say, very dubious whether the form is in fact valid.

Senator Perrault: Honourable senators, the Government of Canada is responsible for the safety of its citizens abroad, and perhaps there are areas and circumstances where it is not appropriate for members of Parliament to travel with special passports. As I say, I can only promise to seek clarification from the minister on this particular point. I do not have the information immediately available. I shall attempt to obtain it.

Senator Smith (Colchester): I wonder if, while doing that, the Leader of the Government would be good enough to find out just what the rationale is for such a restriction.

Senator Perrault: Yes, I shall most certainly undertake to do that.

Senator Grosart: Would the Leader of the Government also clarify, when he gives an answer, if the reason for the withdrawal of the validity of these passports to Taiwan has something to do with the safety of Canadians rather than with the fact that Canada revoked, went back on, its solemn promise that it would not take the action it did in respect of recognition of Taiwan?

Senator Perrault: Honourable senators, perhaps it may be appropriate to schedule a full-scale debate on foreign policy one of these days. It seems to me that we are rapidly moving into that area.

Senator Grosart: Why not?

Senator Perrault: Yes, why not? It may be a useful exercise to schedule a debate on this subject. I do not believe we have had a discussion of foreign policy for some time in this chamber.

Senator Croll: Make it early in August.

CANADIAN NATIONAL RAILWAYS

COST OF CONSTRUCTION OF TOWER IN TORONTO—QUESTION ANSWERED

Senator Perrault: Honourable senators, on June 9 a question was asked by Senator Denis on the subject of the CN tower in Toronto. The question related to the cost.

The Canadian National approved the construction of the tower in late 1972 and construction began in February 1973. The initial cost estimate had been set at $24 million, but the final cost edged above that figure to $57 million.

Senator Smith (Colchester): Some edge!

Senator Perrault: It has been pointed out by CN officials that, although the cost increased beyond their expectations, the revenues also are projected as being substan-

tially beyond original estimates, and the return on the investment remains the same.

Senator Flynn: Inflation!

Senator Perrault: I understand that there is further detail available suggesting that there have been substantially greater costs in the CN tower. I understand that there are "mitigating circumstances."

Senator Phillips: Why are they mitigating?

[Later:]

Senator Denis: May I address a supplementary question to the Leader of the Government with respect to the CN tower? I wonder if the minister involved would be in a position to comment on the expectations of there being a surplus or a deficit, as far as the administration of this tower is concerned; and in the event of there being a deficit, is it going to be paid by the taxpayers of Canada or is it going to be paid through a lottery?

Senator Phillips: Why not a lottery?

Senator Perrault: In view of the fact the Deputy Leader of the Government was asked this question originally, perhaps he may wish to enlighten us further.

Senator Langlois: Honourable senators, Mr. Robert Bandeen, President of the Canadian National Railways, last week made a full report to the press. At that time he dealt with the costs and expected profits of this project. First of all, he explained that the site at Metro Centre was cancelled and consequently the original design of the CN tower had to be completely changed to provide for a larger and a higher tower to accommodate facilities such as a fast food restaurant and an additional platform for radio and TV antennas, and thereby achieve a more profitable venture. These additions were carried out and this was one of the reasons given for the increase in costs. The original design had to be altered, and was carried out at a time of high inflation rates and labour troubles.

As to the project's being a profitable venture, Mr. Bandeen added that the CN tower would provide a net operational profit of 10 to 12 per cent per year, or in the neighbourhood of some $6 million. This profit would come from the operation of the fast food restaurant, the radio and TV stations accommodated on two broadcast floors, and from visitors interested in viewing the highest free-standing structure in the world. He considers this to be quite an attraction for Toronto.

For your additional information, may I at this time take the liberty to refer all senators to the statement made by Mr. Bandeen, as reported in the Report on Business of the *Globe and Mail* of last week—I do not remember the exact date of the publication of this report but it was in the middle of the week—where Mr. Bandeen gave a full account of the costs of this tower and of its future.

GOVERNMENT EXPENDITURES RESTRAINT BILL

DATE OF INTRODUCTION IN SENATE—QUESTION ANSWERED

Senator Perrault: Honourable senators, on May 18, 1976, the Honourable Senator Forsey asked a question with respect to government restraint. The question was: What is the fate or status of Bill C-87?

[Senator Perrault.]

The Honourable Mitchell Sharp stated in the other place on June 7, 1976—and this must be my reply:

> The government is now in a position to agree not to insist on proceeding with Bill C-87, regarding expenditure restraints, before the summer adjournment. If it is not approved in the fall before prorogation it will, however, be brought back in the next session for passage before the end of the year.

FISHERIES

RIGHTS OF MICMAC INDIANS OF CROSS POINT RESERVE TO FISH ATLANTIC SALMON—QUESTION ANSWERED

Senator Perrault: Honourable senators, on June 16 the Honourable Senator Molson asked whether any consultations have taken place with the MicMac Indians of Cross Point Reserve to ensure that they can freely fish salmon for need, but that netting on a large scale for sale on the market would be constrained.

As honourable senators may know, management of the fisheries in the province of Quebec has been made by arrangement a provincial responsibility, and for Atlantic salmon the Quebec Department of Tourism, Fish and Game is the responsible agency. Earlier this month the minister of that department is understood to have entered into an agreement with the Restigouche band council, Cross Point Reserve, to permit band members to take salmon for food purposes solely for the Restigouche band members living in full-time occupancy on the reserve and for no other purpose.

● (2030)

In the agreement various conditions were set out defining the fishing area; the type, location and making of nets; the fishing time; a quota of 10,000 pounds of salmon for 1976; and a prohibition on selling, attempting to sell, barter or otherwise attempt to dispose of the salmon.

CITIZENSHIP BILL

MOTION FOR THIRD READING

Senator Connolly (Ottawa West) moved the third reading of Bill C-20, an act respecting citizenship.

Senator Laird: Honourable senators, I propose to move an amendment to this bill.

Senator Flynn: Honourable senators, I wonder if the sponsor of the bill would give an explanation to the Senate about the long time this bill has been in committee and why it is now being reported without amendment. Would he comment on what was or was not accomplished in the committee, as the case may be?

Senator Connolly (Ottawa West): Honourable senators, I am happy to make a short comment on that, and I understand that Senator Laird has an amendment to move. I did not come armed with the precise dates of the committee hearings, and I notice the chairman is not here to fortify me on that point. However, I can say that we heard officials from the Department of the Secretary of State, under which the citizenship branch falls; we also heard officials from the Department of Justice with reference to some of the legal technicalities of the bill. It is fair to say

that with respect to the citizenship aspect of the bill, with the exception of one or two discussions in connection with specific points which were not of substance, the committee was unanimously in favour of reporting those clauses concerned with that aspect of the bill.

The one clause of the bill which gave the committee pause was clause 33. As Senator Flynn is aware, that is an unusual clause which was put there as a result of certain discussions which had gone on at the federal-provincial table. Those discussions had to do with restrictions upon the ownership of land arising from certain provincial enactments. The question of the meaning and purpose of clause 33 led to a considerable amount of discussion in committee. Some voices were strongly opposed to the proposals contained in clause 33. Ultimately, the committee decided to hear the Minister of Justice, who appeared at the last meeting of the committee. Together with the minister and his officials the committee carefully investigated clause 33, as a result of which a motion was made and carried that the bill be passed without amendment. That is the stage we reached at the termination of the committee meetings. We have now reported such to the Senate from the committee, and the motion I speak on now, honourable senators, is for third reading.

I may say to Senator Flynn that after I have heard Senator Laird's proposals, I should like to say a word on the amendment as well.

MOTION IN AMENDMENT—DEBATE ADJOURNED

Senator Laird: Honourable senators, now that the main motion has been made I wish to move, in amendment, that Bill C-20 be not now read the third time but that it be amended as follows:

On page 17 of the bill strike out clause 33 and substitute therefor the following:

"33. (1) Subject to subsection (2),

(a) real and personal property of every description may be taken, acquired, held and disposed of by a person who is not a Canadian citizen in the same manner in all respects as by a Canadian citizen; and

(b) a title to real and personal property of every description may be derived through, from or in succession to a person who is not a Canadian citizen in the same manner in all respects as though through, from or in succession to a Canadian citizen.

(2) Subsection (1) does not operate so as to

(a) qualify any person for any office or for any municipal, parliamentary or other franchise;

(b) qualify any person to be the owner of a Canadian ship;

(c) qualify any person to take, acquire, hold or dispose of any property that under or pursuant to any Act of the Parliament of Canada may be taken, acquired, held or disposed of only by Canadian citizens;

(d) entitle any person to any right or privilege as a Canadian citizen except such rights and privileges in respect of property as are hereby expressly given to him; or

(e) affect any estate or interest in real or personal property to which a person has or may become intitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the 4th day of July, 1883, or in pursuance of any devolution by law on the death of any person dying before that day."

● (2040)

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Connolly (Ottawa West), seconded by the Honourable Senator Macnaughton, that this bill be now read the third time.

In amendment, it is moved by the Honourable Senator Laird, seconded by the Honourable Senator Michaud, that this bill be not now read a third time but that it be amended as follows—

Some Hon. Senators: Dispense.

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

Senator Hicks: May I ask a question which seems to me to be relevant at this stage? You said, Senator Laird, that the portion you read to us was subclause (2). Does that mean that it replaces the existing subclause (2)?

Senator Laird: Yes. Honourable senators, I perhaps read this so quickly that you missed what I did. I moved that the bill be not now read the third time but that it be amended as follows:

On page 17 of the bill strike out clause 33 and substitute therefor the following:

Then I read off two subclauses. It so happens—and this will help honourable senators to understand—that the proposed amendment, subclause (1), followed the wording of the same subclause that appears in Bill C-20, and it so happens that subclause (2) is exactly the same as subclause (8) in the proposed bill. That makes it easier to follow. Of course, you will want to know what the import of this amendment is, and it is very simple.

Some Hon. Senators: Oh! Oh!

Senator Laird: The explanation, in few words, is that the bill as reported by the committee, without amendment, contained this new provision that any province could legislate to the effect that for any person to acquire or succeed to real property in that province, such person must be a Canadian citizen. You may say, as a starter, that that is only enabling legislation, and that it is up to the provinces whether or not they want to pass such legislation. Of course, I only lately was able for the first time to glance over—and that is about all it amounted to—the unrevised proceedings of the meeting of the committee which was held last Tuesday. Unfortunately, due to transportation problems that you are only too well aware of, I missed that meeting, when after discussion, as Senator Connolly says—and quite a discussion it was, too—the bill was subsequently reported without amendment.

This makes me most unhappy, because I feel that this is very, very outrageous legislation. It enables a province to do something which it could not do, of course, unless we

enabled it to do so, for the very simple reason that we have sole jurisdiction over citizenship. The provinces can do other things under the British North America Act, but they cannot legislate with regard to citizenship unless we enable them to do so by this clause 33.

In the course of the discussions in committee it was apparent that not too many provinces would do something like this. Furthermore, it was brought out that some provinces indicated they did not want to be restricted to excluding ownership of real property to non-residents, that they wanted to have wider scope. But if they had wider enabling legislation, it was argued by the minister that this, in effect, would restrict it. To me that was a facetious argument. To me that means only one thing: if you pass legislation enabling a province to do something, it could not do otherwise than take advantage of the situation. The temptation is overwhelming to take advantage of it.

Just think this through. Supposing a province passes legislation to the effect that if you acquire property, presumably by deed, or by some such means, or if you are left property by succession, as in the case of a will, if you are not a Canadian citizen, you cannot take it. I am sure that unless you are lawyers you might be completely puzzled by this, so to presuppose what might be asked of me by way of a question, let me suggest that people might say, "Well, what happens?" Who knows? Who knows what the province might put in its legislation? It might provide that in a case, for example, where property is left in a will to a citizen of some country other than Canada, the property would be dealt with as it would be if there were an intestacy; that is, as if no will had been made. On the other hand, the province could provide that it could be escheated to the Crown. The potentialities are tremendous, and two things worry me, the most important of which is the personal element.

Let us suppose, for example, that a Canadian residing in Ontario is married to an American, and the Canadian dies. Let us suppose for the purposes of argument that the American spouse is the wife, and she is a landed immigrant in terms of another subsection which appears later on in the bill. In that case, none of this applies. Supposing, however, that the Canadian husband dies in the interim. Then what is the picture going to be? This brings me to the second important consideration which I noted with interest was brought into the discussion by Senator Macnaughton in committee. What effect is this going to have on the matter of titles, and the certification of titles by lawyers, without which no loan company is going to advance money? This worries me a great deal. The potential is there to completely foul up a title to the point where there are potential flaws and difficulties facing any lawyer who is trying to certify that there is really good title.

I am not going to go into all the details that were gone into in committee regarding what would happen, for example, if a mortgage was foreclosed and the mortgagee was an American citizen, and so on, all of which could include an American-controlled company. If you want to conjure up all the situations that could arise, it is not difficult to imagine the sort of thing that could happen.

Senator Grosart: Could I ask the senator a question? Is he now describing the original bill or the bill as amended?

[Senator Laird.]

Senator Laird: I am describing the original bill that was given unanimous approval in committee.

Senator Grosart: Is the honourable senator now speaking against the amendment?

Senator Laird: No. I am making an amendment. In effect, I am disagreeing with the report.

Senator Flynn: As reported to the house.

Senator Laird: That is correct. That is precisely the situation. I am in disagreement with it. If I had been in that committee the result might have been the same, but I can assure you that there would have been one frightful outcry. All of this was brought out in the committee meetings prior to the one I missed. I was present at the prior meetings and cross-examined on all these matters.

At the final meeting, as Senator Connolly says, the minister present was the Honourable Ron Basford, who was concerned with the one section, the balance of the bill being the responsibility of the Honourable Hugh Faulkner. The clause I refer to was said to involve a legal problem, and therefore it was a proper one for the Minister of Justice to be responsible for. He was best able to explain why the clause was in the bill. The Citizenship Act is a strange place to have a clause of this kind. If a title was to be searched, who would think of checking in the Citizenship Act for a flaw or potential flaw in the title?

● (2050)

That is the sort of thing that worries me, and while I do not like to be disagreeable, particularly at this late point in the session, I simply cannot let this pass without drawing to your attention the results which could ensue unless this bill is amended along the lines I have proposed, and which uses appropriate language already appearing in the bill, but eliminates from the bill subclauses (2) to (7) inclusive.

That is what my amendment is, honourable senators, and that is the total explanation. I could speak for an hour on this matter because I view with great alarm the existence of this particular clause in its present form, so much so that I could not let it pass in spite of the committee's having approved it and so reported to this house.

I hope that honourable senators will think this thing over very carefully before they vote. It is not as readily apparent, I think, to persons not trained in the law, but to any person trained in the law this is a most unfortunate suggestion in this particular bill. So, honourable senators, I am asking you to vote for the amendment so as to clear up this point.

Senator Flynn: Honourable senators, it seems to me that the point raised by Senator Laird is worthy of serious consideration. I have read clause 33 and it seems to me to pose many, many problems. The first question is whether the federal Parliament can delegate that power to the provinces, especially in this case, as I read it, to the lieutenant governor in council and not to the legislature.

The second point is the substantive effect of this. I know that Prince Edward Island adopted legislation concerning this, and I know that in its last budget Quebec provided for a tax payable on the acquisition of property by non-residents.

Senator Laird: And Ontario as well.

Senator Flynn: So, as Senator Laird has said, this creates a great deal of complication with regard to the operation of the lawyer or the notary in Quebec insofar as the search of titles and things like that are concerned. I think the amendment might have been to strike out entirely clause 33. That is my first reaction. But I have not read the amendment proposed by Senator Laird, and I would like to read it very carefully because I think it is doubtful that we could have a useful discussion of the amendment, which is designed to substitute something in the bill for what already is there, without having read it carefully. So if it is agreeable to the Senate, I move the adjournment of the debate at this time so that we may have a chance to look at the amendment before we continue the discussion.

The Hon. the Speaker: Is the Honourable Senator Flynn moving the adjournment?

Senator Flynn: Yes.

On motion of Senator Flynn, debate adjourned.

APPROPRIATION BILL NO. 4, 1976

THIRD READING

Senator Langlois moved the third reading of Bill C-94, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

The Hon. the Speaker: It is moved by Senator Langlois that this bill be now read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Forsey: Honourable senators, I am sorry that the transportation difficulties to which various people have already made allusion prevented me from being here when second reading was carried. I was unavoidably detained in my native province of Newfoundland.

Senator Flynn: By fog?

Senator Forsey: No, not by fog. We had beautiful sunny weather, but the fog existed elsewhere—it was of a legal and spiritual kind, shall I say.

Had I been here I should have made on that occasion the remarks which I intend to make tonight. Had I been here I should have expressed my strong dissent from the passing of second reading of this bill, and should have done my best not only to indicate my dissent but to divide the house on it and secure such support as I could for rejecting the bill.

I am thankful that the question has at least—and at last—been brought before us, even in this most unsatisfactory form, and I subscribe to all that the honourable Senator Grosart said on that head. I would add also something that I think has escaped the notice of honourable senators and which was drawn to my attention by an honourable member of the other house. Some considerable time ago, in 1950, to be exact, the then Auditor General of Canada, Mr. Watson Sellar, submitted a report, a memorandum on estimates and the various issues that arise in dealing with them in this house, and he said, and here I think most honourable senators will agree, and I quote directly:

> Legislating by means of an Appropriation Act is a convenience when a need is transitory. Furthermore, it avoids cluttering the statute books with expired legislation. But from the constitutional viewpoint, it is open to the objection that it is, in fact, incomplete legislation—

And this particular bill contains a great deal in the way of substantive legislation. That last, of course, is not part of the quotation; it is my own comment. Mr. Watson Sellar went on that if the Senate is sent a supply bill which has in it matters which are legislative, it should ask that those legislative sentences be struck out and be put in another bill. Here are his exact words:

> If other matters are inserted in the bill or "tacked to it" these should be struck out and be made into a separate bill or bills.

This to my mind is a conspicuous example of "tacking" to a supply bill something that is in fact substantive legislation. It is a glaring example of that nefarious practice.

Now if this Loto Canada had been set up for a limited period, for the limited purpose of cleaning up the Olympic deficit, I could have swallowed it—just—with some gagging. But that is not the case. This is a permanent institution which has been set up by virtue of the provisions of the Canada Corporations Act. It is true that we have had certain assurances in the other place from the President of the Treasury Board, but ministers can change and governments are not immortal. And judging by what I read of the remarks of the Honourable Senator Grosart the other night, and I read the whole lot, but judging by the impression I got from those remarks, if a Conservative government were to take office it would put this monster into proper legislative form, but it would be quite prepared to go ahead with this as a permanent institution—a permanent part of our fiscal machinery, and that to my mind is not good enough.

This I think is a bad proposal, a bad innovation in our fiscal procedures. It is a device for skinning the poor, a highly regressive means of taxation. It is an encouragement to gambling generally and hence indirectly to organized crime. It is a discouragement to honest work.

● (2100)

In my judgment we may not be able to stop gambling, but we should not erect it into a major method of raising revenue. I may observe parenthetically that one honourable senator said we all like to gamble. I repudiate that statement, not only on my own behalf but on the behalf of thousands of people in this country who do not believe in gambling and will have nothing whatever to do with it. I simply refuse to believe that I am unique in that respect and I think that the suggestion that everyone holds the same views as the honourable senator in question on this is, as far as I am concerned, verging on the libellous.

I am astonished and dismayed—we should not erect this into a major method of raising revenue—that on second reading there should have been so little opposition and that there should not have been reported even a modest "on division".

To conclude, honourable senators, if I can divide the house on this, I will. If not, I shall record my dissent by a loud and clear "On division".

Senator Hicks: Honourable senators, in speaking on an inquiry dealing with this subject earlier, I expressed my views and need not repeat them tonight other than to say that I join in the position which Senator Forsey has put forth.

Senator Grosart: Honourable senators, Senator Forsey has referred to the remarks I made previously with respect to this particular subject. I am glad to see, because I expected it, that on the matter of principle he agrees with me as to the impropriety of this method of raising revenue. It is a device which should not be used and which the Standing Senate Committee on National Finance has reported against in much milder uses in the past. We have heard the argument, of course, in this case that this would not be a precedent. On the other hand, those supporting it cited other precedents of various kinds, including the formation of Atomic Energy of Canada Limited. Of course it will be a precedent; it will be a precedent for the further galloping erosion of the rights of Parliament. Senator Forsey suggested that I had indicated what a Conservative government might do if this situation arose, or if this temptation came before it. I do not know where Senator Forsey has obtained the information as to my influence on a Conservative government policy in the future. However, I assure him that I have not the faintest idea of what a Conservative government might do in a similar case. I rather suspect that it would receive the same type of advice from the officials as that which was given to the present government in this case, that there is an easy way out and why not take it, no one will object, Parliament will go along with it and the Senate will do nothing about it, of course, and will pass it quietly, as usual. For that reason, if Senator Forsey wishes at the appropriate time to divide the house, he will have my support.

Senator Langlois: Honourable senators, if I may comment on the addresses made by the preceding speakers, I should like to draw the attention of the Senate to the fact that those who object to lotteries being created and operated in Canada are a little late in making their objections known tonight. This system of operating lotteries was created not by this bill but years ago when the Criminal Code was amended to allow the creation and operation of lotteries in Canada. We are not called upon to decide upon the propriety of having lotteries in Canada. This has been on our statute books, namely, in the Criminal Code of Canada, for three or four years, if memory serves me well. By means of this bill we are doing a few simple things. First, we are authorizing Loto Canada shares to be bought for one dollar. We are providing working capital advances of $5 million to allow the company to operate Loto Canada under letters patent. We are also providing the establishment of an account in the Accounts of Canada to be known as the National Lottery Account, to which shall be credited the net revenues of Loto Canada Inc. paid to the Receiver General for Canada and, continuing with the words of vote L27a:

> ... to authorize payment out of the Consolidated Revenue Fund and to charge to the said Account
>
> (d) in the current fiscal year, for the purpose of physical fitness, amateur sport and recreation programs in accordance with terms and conditions prescribed by order of the Governor in Council, of an amount not to exceed 5% of the amount credited to the said Account in the current fiscal year; and
>
> (e) subject to the amounts that may be paid pursuant to paragraph (d), in the fiscal years 1976-77, 1977-78 and 1978-79 on the last day of March, June, September and December of each such year, until the 31st day of December 1979—

Therefore the termination of this operation is December 1979.

Reference was made to a promise made in the other place. It was more than a promise; it was a resolution adopted, if my information is correct, by the Miscellanous Estimates Committee of that house to the effect that the regulations covering the operations of Loto Canada should be amended to close the lottery after the completion of the thirteenth draw. That is a limitation, not a promise, but a limitation imposed in consequence of a motion of a committee of the other place.

Senator Forsey: Would the honourable senator allow a question?

Senator Langlois: If the honourable senator would allow me to complete my explanation of this I would appreciate it; I will not be very long. That is all we are doing by means of this bill. We are not amending the Criminal Code; it was amended years ago. We are not incorporating in the fund-raising structure of this country a new system of raising money. This was done years ago when authority was given to the Government of Canada to operate lotteries. As a matter of fact, this authority was given also to provincial governments, provided they operate under the regulations passed by the Governor in Council. This was done in the case of the province of Quebec for the last two years with regard to the Olympic lottery. Therefore, we are simply carrying into effect the decision of Parliament which was made, as I said, three or four years ago when the Criminal Code of Canada was amended to allow the operation of lotteries in this country.

Senator Forsey: Will the honourable senator now permit a question?

Senator Langlois: Yes.

Senator Forsey: Is there anything in the charter of this corporation under the Canada Corporations Act which limits its operations to the years 1977, 1978 and 1979?

Senator Langlois: No, but if my honourable friend will read vote L27a in the supplementary estimates (A) he will see that the national lottery account is limited to fiscal years 1976-77, 1977-78 and 1978-79. There was a resolution passed by the committee of the other place, as I mentioned, limiting, through an amendment to the regulations, the operation to thirteen draws. Therefore, after the thirteenth drawing has been carried out the company must discontinue its operations because it will not be allowed to operate under the regulations as amended by the said resolution.

Senator Forsey: Is there anything to prevent the Governor in Council in 1979 passing fresh regulations? The situation will still exist. Is there anything in the resolution

to prevent the Governor in Council from passing fresh regulations which would allow this corporation to go on doing this ad infinitum?

● (2110)

Senator Langlois: If my honourable friend is asking me to say that the authority of the Governor General is going to be limited by this supply bill, I would say no. It is not a promise; it is a resolution of a committee of the other place, to which house the minister and all the other ministers are accountable.

Senator Forsey: Surely the honourable gentleman will admit that resolutions can be changed, that what has been passed by one Parliament can be unpassed and done away with by another Parliament. Does he not agree that so long as the institution is there, a subsequent Parliament or government can change the thing and can pass new regulations and continue the operations of this affair?

Senator Langlois: If my honourable friend is asking me if this bill limits any future Parliament of Canada in its acts, I would say that is an impossibility. This is quite elementary.

Senator Forsey: Quite; precisely. So this is a permanent thing.

Senator Langlois: What are we talking about, then?

Senator Grosart: Would the deputy leader admit that the purpose of this bill is to create for the first time in Canadian history a federal lottery?

Senator Langlois: We are not creating a company which is going to operate a lottery. This corporation has been incorporated by letters patent. We are not changing that. We are providing the means for this company to operate, and, as I explained the other day, the corporation will have to report to the Minister of National Health and Welfare, and through him to Parliament, each year, and the Auditor General will be auditing the accounts of the corporation. We are providing for that, and it is also provided for under the Financial Administration Act.

Every year Parliament will be informed completely of the operations of Loto Canada Incorporated. In addition, as I said the other day, there will be in the estimates of the Department of National Health and Welfare each year an item covering the operations of this crown company, and such item will be debatable in both houses of Parliament.

Senator Grosart: With respect, I do not think the Deputy Leader of the Government has answered my question. I asked: Does this bill create—because that is what the Minister said—for the first time in Canadian history a federal lottery? That is all I am asking. Yes or no.

Senator Langlois: No; for the simple reason that, as I have explained, this lottery will be operated by a corporation which has been incorporated by letters patent. We are not incorporating this new entity. It has been created by letters patent.

Senator Hicks: You are just financing it.

Senator Grosart: The minister's statement was very clear, that the purpose is to create a federal lottery. Obviously this is what has been done. It does not matter how it is done, whether it is done by letters patent or any other way. For the first time in Canadian history the federal government is in the lottery business—

Senator Forsey: Yes.

Senator Grosart: And the objection we have made is on that point—not that it might not be good policy. I am not arguing that point. I am not arguing the morals or anything else. The point which some of us have raised is that a major change in government policy, which is objected to by many people—I am not saying I am one of them—should not be made by a loan vote in supplementary estimates.

Senator Langlois: Honourable senators, I repeat that this decision was made by Parliament years ago when the Criminal Code was amended to permit the Government of Canada to operate lotteries. Today, by this bill, we have merely provided the means by which that can be achieved.

Senator Grosart: You have created it.

Senator Forsey: Would not the Deputy Leader of the Government admit there is a difference between permitting something and actually doing it? You pass an act, surely, to permit something, but it does not follow that you are actually going to do it. Permission is there, but the actual doing of the thing is, surely, something different.

The Hon. the Speaker: It is moved by the Honourable Senator Langlois, seconded by the Honourable Senator Perrault, that this bill be now read a third time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Forsey: On division.

Senator Bourget: On a small division.

Motion agreed to and bill read third time and passed, on division.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-58, to amend the Income Tax Act.

Senator Hayden moved that the report be adopted.

He said: Honourable senators, before I embark on an explanation of the substance of the report I would ask if it is the wish of the Senate that I should proceed now. I am perfectly prepared to do so, but, no matter how I may try, it will take me more than a few minutes. However, I am in the hands of the Senate. I am ready to proceed, but I would not like to divide my remarks into two parts.

I propose to explain first the purposes and objectives of Bill C-58. It is over two months since we debated the bill in the Senate, and it may well be that in view of all the other matters which have come before us, and which have occupied our time during that period, the important and particular details of bill C-58 may not be clear in the minds of some honourable senators. For that reason I propose to take a few minutes to explain the purposes and objectives of the bill.

The bill proposes a change in the existing law in relation to Canadian and non-Canadian newspapers and periodicals, and also the repeal of an exemption which the law, up until now and until the bill becomes law, allows—that is, the exemption provided by amendments which were made in 1965.

In 1965, by amendments to section 19 of the Income Tax Act, the provision was imposed for the first time that no deduction shall be allowed for the expense of advertising in a non-Canadian newspaper, periodical or magazine. An exemption was then provided that to the extent that there were such non-Canadian periodicals and newspapers operating in April 1965, and with the limitation that so long as thereafter they maintained without interruption their operations, they shall be deemed not to be non-Canadian newspapers and periodicals. So that constituted an exemption from the otherwise non-deductibility of the expense of advertising by Canadian advertisers in such publications.

● (2120)

A second feature has been added for the first time, and that feature has to do with broadcasting. Bill C-58 provides that no deduction shall be allowed for advertising expenses incurred in connection with the broadcasting of advertising material primarily directed to the Canadian market by a broadcast undertaking outside of Canada. I may hereafter refer to broadcast undertakings outside of Canada as border stations. If so, it means stations that operate outside of Canada. They are known in the trade as border stations.

Those are the two essential principles of Bill C-58. The Senate, in adopting the motion for the second reading of Bill C-58, approved, by a substantial majority, the principle of the bill, following which it was referred to the Banking, Trade and Commerce Committee. The committee heard numerous witnesses. It received approximately 16 briefs from substantial interests in the fields of pictorials, magazines, broadcasting and advertising, and many more briefs from people who were interested in presenting their views but who did not wish to be heard. In all, we heard about 47 witnesses while sitting, I would say, about two days a week starting from May 5 and going through beyond the middle of June. The result is this report.

I want honourable senators to understand clearly that this report does not propose any change in the principles of the bill, the essential principles which I have enumerated. It does not erode in any way the principle in relation to broadcasting.

The ministers appeared before the committee on May 5 and 6 and were very clear in their language as to the objectives of the bill. The Secretary of State said:

> These changes in the income tax law affecting advertising in periodicals are regarded as a very important factor in terms of developing and nurturing a distinctly Canadian culture and identity. This is the intent of one part of Bill C-58—

The part which refers to Canadian newspapers and Canadian periodicals and magazines.

> —to develop a distinctly Canadian culture and identity through a Canadian periodical press by affording it access to a fair share of advertising revenue in the Canadian market.

[Senator Hayden.]

The effect of disallowing the deduction of advertising costs in non-Canadian magazines and periodicals would subject the Canadian advertiser to a tax on his net income from which he could not deduct these expenses before calculation of his tax.

I should point out also that in the original amendments that were passed in 1965 there was a standard set as to the requirements that any pictorial or newspaper proposing to operate in Canada had to meet, one being that 75 per cent of the voting shares had to be held by Canadians, and 75 per cent of the board of directors and the presiding officer of the company had to be Canadians. Secondly, and most importantly—and this was in the 1965 legislation—that the contents of the magazine, pictorial or newspaper containing this advertising "must not be substantially the same" as the contents of a counterpart magazine published outside of Canada. The test was that those magazines which were located in Canada, by virtue of the exemption in the 1965 legislation, lost their statutory exemption, and if they were going to continue in operation in Canada thereafter they had to meet the requirements of the 1965 legislation, which were 75 per cent Canadian ownership of the voting shares, 75 per cent of the board of directors being Canadian and the presiding officer of the company being Canadian. In addition, they had to meet the test that the magazine or pictorial was not substantially the same as a counterpart magazine or pictorial published outside of Canada.

As it developed in fact, and as it developed before us in committee, there were really two magazines in Canada in 1965 that enjoyed this exemption. They were the only ones that met the test of the exemption, and that test was that throughout the period of 12 months ending April 26, 1965, issues or editions of issues of that publication were being edited, in whole or in part, in Canada, and printed and published in Canada at the usual intervals for issues of that publication, and have since that date continued to be so edited, printed and published without interruption, except for a reason other than the cessation of the business of publishing that publication.

As I indicated, only *Reader's Digest* and *Time* Canada qualified for entitlement to have that exemption in 1965. Since that date there have been no new magazines or periodicals that have sought to come into Canada and to qualify under those provisions.

Then we look at the situation as it developed in evidence before us. Both *Reader's Digest* and *Time* Canada appeared to be caught under this repeal of the exemption provisions. *Time* indicated to us that it had interested potential purchasers in the purchase of a controlling interest, a 75 per cent interest, in *Time* Canada, and therefore had to ascertain from Ottawa the interpretation of the words "substantially the same" to be imposed. They got in touch with the Department of National Revenue—or Revenue Canada, as it is called now—and attempted to ascertain the interpretation that was going to be put upon the words "substantially the same."

Since 1965 there has not been any interpretation of those words. There has been no occasion to interpret those words because no person, no magazine, no periodical from outside Canada has sought to qualify as a Canadian periodical, magazine or newspaper. So *Time* had discussions with officials in Ottawa in the month of March. They had

discussions in May with the then minister, the Honourable Mr. Basford. Mr. Basford referred them to his departmental officials, and they had a very useful discussion with them.

● (2130)

A memorandum was produced, which the departmental officials indicated had been prepared to indicate their thinking to date on this question of "substantially the same." It had on it an indication that it had been prepared by the deputy minister for purposes of discussion with the minister. However, the then minister indicated that he was not prepared to discuss it with them until he had first made a statement to the committee that was going to consider the bill in the Commons.

The debate in the Commons was protracted—so much so that there was a change in portfolios, and the Honourable Mr. Cullen became the Minister of National Revenue. There was a request by *Time* that the minister refer this matter of interpretation to the Federal Court under section 173 of the Income Tax Act, and he refused. I am going to read you the memorandum in a few minutes.

The next step was that on October 23 the new Minister of National Revenue issued a press release in which he announced that "substantially the same" meant that you had to determine the degree of difference between the Canadian publication and the publication outside of Canada, and the difference between the Canadian publication and the outside publication had to be at least 80 per cent. In other words, you could only incorporate in the Canadian edition up to 20 per cent of the content that was being generated from outside Canada by the counterpart magazine.

On October 23, with this bill coming into force on January 1, 1976, and being told you had to meet this test of at least 80 per cent difference in content, the time for being able to maintain the continued interest of your proposed purchasers of course disappeared. It is perfectly easy to understand why any investors in the circumstances, and in the state of the law, would want to know that this magazine, of which they were buying 75 per cent of the shares, could operate under the law in Canada.

The end of the year came and this bill went on its course in Parliament. It eventually got to us some time during April—and it is still not law. In the meantime, the expenses of *Time* were mounting very greatly, so they dropped their Canadian edition and to that extent left Canada, although the American edition is still circulated in Canada. Advertising revenues, of course, dropped.

Let me tell you what this memorandum said, to show the basis for our thinking, in one of our amendments, that interpretation of the words "substantially the same" should not in the circumstances be left to the Executive, but rather should be left to the courts. If we are going to have the rule of law prevail, as we think it should, that is where a taxpayer or a person contemplating coming into Canada should be able to go. He should be able to find out what the courts say is the meaning of the legislation; it should not be left to the discretion of the Executive. In other words, our proposed amendment elevates the responsibility of the source of the interpretation. We take from the Minister of National Revenue the responsibility of giving interpretations. There is nothing in the Income Tax Act which provides for those interpretations, unless you say that the minister has broad powers to make regulations under the act, and I think it would be stretching it too far to include interpretations.

Just to show you the course, the memorandum reads in this fashion:

> The literary contents of a Canadian issue of a periodical need neither be written by Canadians nor be on essentially Canadian subjects.
>
> The requirement is that at least half the contents be new, fresh, original material which has not appeared in any periodical outside Canada. A topic may be the same as one covered in a foreign publication; but, the writing must be sufficiently different so that there can be no infringement of the rights usually associated with the original article and the original author.
>
> Minor additions or deletions to Canadianize a composition does not create substantially different content. Photographs and illustrations will be viewed as supporting the literary compositions in the periodical. Photographs which have been cropped, blown up, rearranged on a page, or replaced by a similar view of the same subject will not be viewed as a different content.

That was as far, in the matter of interpretation, as they were able to get until October 23. The percentage had been discussed as being 50 per cent, 60 per cent, and then it was suggested perhaps 80 per cent.

When we asked the minister, the Honourable Mr. Cullen, why they picked the qualification of at least 80 per cent, his answer, in the words that he used, seemed fairly simple. It was that, of course, at least 80 per cent substantially the same was so clear, and so clearly to be interpreted, that there could be no confusion whether it was 79 or 78 per cent. I remember I asked, "What if you disallow a qualification because the difference was only 60 per cent, and the person against whom you made the disallowance went to court and said that 60 per cent difference was not substantially the same as the edition published outside of Canada?" He replied: "Well, we would contest it, and if the court gave a different interpretation to our rule or interpretation we would change the law."

Senator Walker: By legislation.

Senator Hayden: This was the situation for any prospective purchaser, or for any person contemplating disposing of his publication or meeting the requirement of remaining in Canada, and it is understandable why in those circumstances *Time* Canada moved out.

● (2140)

I am not saying this in an attempt to present any brief for *Time* Canada. I am only telling you what the course of events was to give you an appreciation of why one of the amendments in our report is an amendment that provides that any publisher who is proposing to acquire and to operate a Canadian magazine or periodical in Canada may go to the Minister of National Revenue and request that the matter of interpretation be referred to the courts, and the minister must refer that matter for interpretation to the courts. You can see that that amendment does not interfere with the principle of the bill at all. All we do is

change from the minister to the court. We say in the circumstances, and with the background which I have related to you, it is a justifiable change.

Another amendment is under the heading of retroactivity. Bill C-58 provided that the sections dealing with Canadian newspapers, pictorials and magazines would come into force on January 1, 1976. This is now June 28, 1976 and the bill as yet has not become law. Therefore, there is even now a substantial retroactive effect to this legislation.

For instance, take Canadian advertisers who may have had advertising contracts outstanding for the first four months of 1976 with *Time* Canada, and *Time* Canada leaves. *Time* Canada at that time of leaving Canada was a non-Canadian publication because it had departed from the exemption and the terms of the exemption. It had interrupted the continuity of its production and distribution in Canada. That was one of the terms of the exemption provided in 1965. Therefore, a great many people felt—myself included, although I am not offering myself as a witness—that retroactivity in any legislation is repugnant, and that you only agree to it when there is a very definite requirement that you must have it. I am thinking in particular in connection with the budget where you have to crystallize positions at a certain date so there cannot be changes to evade, avoid or escape the provisions of the law at a certain date. I have said in this chamber time after time in explaining tax bills that retroactivity is something to which I am opposed except when it is beneficial to the taxpayer, and then I am all for it.

The second amendment we propose is that instead of saying that this bill comes into force on January 1, 1976, we say it comes into force on January 1, 1977—instead of saying, as Bill C-58 says, the sections on non-deductibility of advertising expenses apply to any non-Canadian publication published after December 31, 1975. That date has long since gone. We say that December 31, 1975 should be December 31, 1976, with the bill coming into force on January 1, 1977. Those are two items.

The third amendment concerns *MD* magazine. Representatives of that magazine appeared before our committee. It is a magazine which has a circulation of about 30,000. It is a magazine distributed to doctors. The magazine contains substantially medical advertising, equipment, and things of that nature. It is a clinical magazine.

Senator Bourget: Is it free, Senator Hayden?

Senator Hayden: Yes, it is distributed free.

Senator Smith (Queens-Shelburne): It is like a handbook.

Senator Hayden: It has enjoyed an exemption under the 1965 legislation, under a special provision in section 19 of the Income Tax Act, subsection (4). The wording of subsection (4), as it touches this particular magazine, is as follows:

> Subsection (1) does not apply with respect to an advertisement in . . . any publication—

Subsection (1) is the section in the 1965 legislation which imposes the non-deductibility provision on advertising expenses. It does not apply to any publication.

> —the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion.

[Senator Hayden.]

May I just take you back to the item which the Secretary of State said was the objective of the bill, and that is by increasing the revenues of Canadian magazines and periodicals we would make them economically viable and enable them to develop in a way that would nurture national culture and national identity in Canada. I have always had difficulty in trying to achieve a definition of "national culture." I finally concluded—I could be 100 per cent wrong on this—that you have to look for it in manifestations here and there and elsewhere, in the arts, paintings and this definition, because I would think that fine arts, letters, scholarship or religion would be manifestations of national culture. In those circumstances, why a magazine such as *MD* is struck out as not being entitled to the benefit of this exemption is difficult for me to understand.

Since 1965, the income tax people, in allowing this exemption to *MD* each year, have allowed it on the basis that *MD* is a publication the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion.

If national culture can be equated to the fine arts, to letters and to scholarship, then it certainly comes within the objectives which the Secretary of State himself has set as the purpose he expects of the Canadian magazine industry the moment it is on a competitive level with any other magazine in Canada, and it can enhance its revenues. This is the reason for striking out the section of Bill C-58 which repeals the exemption provided in subsection (4) of section 19.

The last item we deal with is the provision with respect to broadcasting. In broadcasting it is provided that the bill shall come into force on a date to be fixed by proclamation. In explaining this, the minister, if I may paraphrase him, said that they had not fixed a date for the broadcast section to come into force. The reason for that was that first of all they had to be satisfied that the needs of the Canadian advertising industry had been adequately satisfied by the existing broadcast facilities available for advertising in Canada before they could proclaim the bill. The real reason, I think, was sort of suggested by Mr. Boyle, the President of the CRTC, who said that he understood, although he could be wrong, that it related to the new station which will be completed in a few months in Vancouver, the biggest competition of which comes from KVOS in Bellingham, Seattle, not too far from Vancouver. The Bellingham station has been enjoying the broadcasting business from the Canadian advertisers, and the moment this portion of the bill is proclaimed the advertising costs which Canadian advertisers pay to the border station for advertising directed to the Canadian market will no longer be deductible for income tax purposes.

● (2150)

The opinion of the committee was that Parliament was the place in which the decision should be made with respect to the circumstances and the date of publication. Therefore, we provided that the way in which the proclamation date would be set would be by a resolution or a motion introduced in the House of Commons. That means the government of the day would introduce the motion or resolution providing for that date and that that resolution or motion would have to be concurred in by the Senate.

You can see, then, that none of these amendments really affects the principle of the bill. In no way have we touched the principle of the bill. The acceptance of these proposed amendments has been good in the eyes of the public, notwithstanding telegrams most senators may have received today from several of the advertisers who appeared before our committee. I was chatting with Senator Goldenberg for a few minutes at dinner this evening and I said, "Do you think I have a legitimate cause of complaint under the Bill of Rights Act, since I feel I have been discriminated against because I did not receive copies of those telegrams?" Perhaps there is a reasonable explanation why I did not receive copies.

In any event, in one of our amendments you can see that we have transferred from ministerial discretion to the Federal Court the matter of interpretation. I think no one can fault the committee on that or even fault such an amendment. On the question of proclamation we have provided that Parliament shall establish the date, and "Parliament" means both Houses of Parliament. Parliament is the authority that should establish the date on as important a thing as the bringing into force of the broadcast sections of this bill; and bear in mind that this is the first time we have this law in Canada.

Now, there are certain regulations and orders of CRTC on various subject matters in connection with broadcasting and the operation of television stations, but on that we felt Parliament should be the ruling factor to establish the date of the coming into force.

Incidentally, I suddenly discovered I was receiving some fan mail, which is a rather unusual circumstance for me, commending us on this attitude of moving in the area of full responsibility toward the courts and Parliament and away from ministerial discretion. I can see why the public interest, as appears in the newspapers and so on, and judging from comments I have heard and telephone calls I have received, would favour such a move.

I feel I have dealt with the amendments sufficiently, honourable senators, and I should now like to take a few minutes to deal with the subject of undertakings, because that question has been raised. The device of undertakings has often been used by the Banking, Trade and Commerce Committee in cooperation with the particular minister whose bill is before us in order to facilitate passage of the bill without foregoing the effect of amendments. In other words, the committee would determine whether the undertakings the minister would be prepared to give would be such that they would reasonably meet the requirements the committee thought had to be met or should be met within a particular bill. I will give you a few illustrations of what I mean.

In many of the bills where that undertaking method has been used the undertakings have been lived up to. In the income tax bill, for example, in which the undertakings were given in December of 1970, it took about four years until the last of those undertakings was fulfilled. But they were all fulfilled. With respect to the foreign investment review bill, I reported to the then government leader at a stage in the committee that it appeared that there would be amendments to the bill and I thought he should know early about that fact. Accordingly, he set up an appointment with the minister and his officials as well as with a representative from the Department of Justice. I appeared with our special advisers and we had a full discussion as to the specific undertakings which, judging from the temper of the committee and the tenor of the discussions, would be necessary in order that the bill might be passed without amendment; and that was done. While the undertakings were fulfilled, I would not say they have been fulfilled fully in the way that one might desire; but they have been fulfilled, let us say, to the letter of the undertakings.

Again I think, for instance, of the bankruptcy bill which we dealt with back in 1967 or thereabouts. We put in a "solicitor and client" provision. The then minister, the Honourable Mr. Cardin, felt that such a provision would interfere with his ability to tidy up matters in the world of bankruptcy and would interfere with his fully dealing with the situation. The Honourable John Connolly, who was then government leader in the Senate, arranged an appointment with the Honourable Mr. Cardin, and I saw the minister on three or four occasions during which we discussed the pros and cons of the matter. I then reported to the committee just what the situation was. We finally agreed to report the bill omitting the amendment we had proposed on the solicitor and client privilege. In that case we had an undertaking that they were working on a new bankruptcy act which would be introduced in "a year or two." The new bankruptcy act was only tabled earlier in this session. We have been working on it and I expect that it will be introduced next year. We have done all our work, we have all our amendments, which are being worked on by our special advisers and myself, and we are trying to conform fully to all the recommendations which were made.

● (2200)

I refer to this only to illustrate that the Standing Senate Committee on Banking, Trade and Commerce is not a hard-boiled or difficult committee to deal with. We do, however, have to look at the substance of what is needed, and when we did that with this bill we felt that nobody could fault us for proposing the kind of amendments we have proposed. We think they are in the public interest and should be supported on that ground.

It would be difficult for me to suggest what undertakings would be required to deal with the subject matter of these amendments, but I have been spared the necessity of that because the minister has not been in touch with me, and I did not feel that I had an obligation to get in touch with him. I did, however, get in touch with the government leader in the Senate and I told him what I thought the proposed amendments were going to be. I can tell you that he certainly did not say that they were awful amendments. His language may have been restrained, but it was not unfavourable to the subject matter of the amendments. Let me put it that way. The government leader will have an opportunity to say whether I have misquoted him or understated him. I certainly have not overstated what he said.

Returning to the matter of undertakings, if I were asked to define them I would say this: if you operate by undertakings, it must be because there is an urgency and an importance in the principle of the proposed legislation which require that it should come into force as quickly as possible. Then the undertakings must be reasonable and in

the public interest, and if they are given you must feel that they will be implemented, because there is no statutory basis on which they can be required to be implemented. Again, the undertakings must refer to specific points. To give an undertaking or a commitment is one thing; but that is very general. It must be clear what the undertaking means. It would be impossible to say what an undertaking meant unless it were in relation to a specific subject matter. Under those conditions you might take a look at an undertaking.

In the past we would only agree, and we would only agree now, to accept undertakings and report a bill without amendment, with the full knowledge of the Senate. Furthermore, we have always included such an agreement in our report to the Senate; we have always told the Senate what we have done. If the Senate rejected the idea, that was its privilege. In the same way, it is the privilege of the Senate to reject our report.

If I might express a personal opinion, if these amendments do not satisfy the full test of responsibility on the part of the committee in its approach to this problem, then I do not know whatever would unless it were the Lord's Prayer.

You have this safeguard, however, that if we accept undertakings and the Senate does not agree with our action, it has a chance to reject them. That is not the situation here, of course. The situation here is that we have not heard from the minister. The minister has announced publicly that he will not accept the amendments, and that insofar as the Senate is concerned he knows that there is a majority here who will support the bill without amendment. If he can move in here and do that, that is fine. There is an Irish expression which I will use: "More power to his elbow."

Having said all this, there is an additional word I should like to add.

There developed, not for the first time but for the second time, in my conversation with the government leader, a discussion as to what might be expected to develop in the Senate. I told him my purpose in calling him, and in outlining to him what the subject matter of the proposed amendments would be. He indicated to me, as he had a perfect right to do, that as government leader in the Senate it was his duty to get government bills through without amendment. I would say that that is a legitimate objective, and a responsible one. But looking at it from the point of view of a member of a committee of the Senate, I find it irksome. There may not be any way in which this can be changed, except by a vote in the Senate, either supporting the position taken by the government leader or supporting the report of the committee. I am not looking for a contest. I am not looking for confrontations. What I am seeking to do is the best that can be done so far as the Senate is concerned, and when I say that I refer to the Senate as viewed through the eyes of the public, because the achievements of the Senate and the prestige it has gained over the last number of years have been quite a wonderful thing. The public have acquired an appreciation of the importance, the value and the authority of the Senate. This is something I would not give up for anything.

I would hate to be the chairman of a committee that was under restraint to the extent that it could only study a bill

[Senator Hayden.]

referred to it, but could not make any amendments. I would not want to be chairman of that kind of committee, or operate under that kind of restriction. So I hope we do not get to that stage.

Honourable senators, I have taken longer than I expected, although perhaps not much longer. I thought I might be 45 minutes, though I did not tell you that in the beginning because I thought you might have said right away, "Let us adjourn."

That is my story, honourable senators. I am sure there are many things, in the interest of conciseness, that I have not developed as fully as they could be developed, but I think I have gone into the subject enough to make you aware of the nature of the amendments and their scope, and the fact that the principles of the bill are not eroded in any way by what the report proposes by way of amendment.

The committee was not influenced by attitudes of ministers when they appeared before it, and those who are members of the committee will understand exactly what I mean by that. Nor were we influenced by the attitudes of any of the witnesses who appeared. We gave these people a fair hearing, and questioned them quite closely with a view to gathering all the essential information.

This is the report. It is in your hands to say whether the amendments are acceptable or not, and that will determine the fate of the bill.

Senator Perrault: Honourable senators, I rise briefly at this time only to correct the record. I hope to make a fuller statement later on behalf of the government with regard to the measure before us.

All of us have different recollections of conversations which are held in the halls and offices of this building. Let me say that I do not regard my responsibility here as being that of advancing government legislation without amendment. If Senator Hayden has quoted me as having said this, it is as a result of a substantial misunderstanding.

Let me tell you, honourable senators, for your information, that it was my invitation that led to the meeting with Senator Hayden in my office, the purpose of which was to discuss with him ways in which this legislation could be advanced and improved, where possible, in as constructive a fashion as could he achieved.

After the meeting with Senator Hayden I did indeed contact him and suggested ways in which improvements could be made. Senator Hayden is fully aware of my continuing efforts during this past week to make certain that the ideas which have been advanced by honourable senators are given fair consideration by this government.

● (2210)

I assure honourable senators that in the ultimate any Leader of the Government in the Senate has the responsibility to advance government legislation. He also has the responsibility to make sure that the prestige and standing of this chamber are maintained at all times, and I labour unceasingly to make these two concepts compatible. Honourable senators who know the extent of my efforts during recent days with respect to Bill C-58 know that substantial evidence exists of my efforts.

Senator Hayden: Honourable senators, may I just answer Senator Perrault? What he has forgotten is that the

first discussion we had was when I approached him by telephone, when I could not reach him otherwise, on the Monday of the week in which we prepared our report. We talked for some time on the telephone, and it was then that I told him of the nature of the amendments which I thought would be proposed, and when he made comment on some of them and not on others.

It was the following morning that there was a discussion with him in his office and he indicated that he would have to discuss with the cabinet or the government these amendments to ascertain what their views were, but he wanted to know whether undertakings would be an acceptable way, insofar as the committee was concerned, of dealing with this. I said, "I am not in a position where I can tell you that now because I am only chairman and one member of the committee, and I would have to know the nature of the amendments and the scope of them, and I want that information." I think later that day on his way into the chamber he did indicate to me that there could be an undertaking in relation to the interpretation of the words "substantially the same", and that was the extent of my discussions with the government leader. I cannot recall a further discussion until this evening.

To my mind it is still the same. Any question of undertakings will have to be discussed in committee because the committee is the sponsor of this report, and I am merely the vehicle through which the report is presented to the Senate. Then whatever they decide will have to come to the Senate to be approved, because it is the Senate that is speaking, not the committee, and it is the Senate which says that this bill is reported without amendment or this bill is reported with amendments, even after our report comes in.

These are the discussions we had. I am inclined to agree with the government leader that there can be misunderstandings as to the exact language that was used in the conversation, but my mind is perfectly clear on the substance of my telephone call, because I had a committee meeting later that night and I relayed the substance of our telephone call to the members of the committee. The meeting which I had next day I did not relate to the committee because parts of it, the absence of which would have made the whole thing disjointed, were discussed in confidence. I have not talked about the substance of what was said on that occasion, and I am sure the government leader knows what I am referring to.

But the parts I felt sure I could relate to the committee I have related to the committee, so at the time they drafted the report they were fully aware of what was going on. I particularly emphasize this because there has been an allegation that I failed as chairman because I did not go to the minister and ask him to discuss with me the undertakings that he might give. My only answer to that, honourable senators, when it came to me, was that I do not regard that as part of my duty as chairman. In all the other cases I have had, the minister actually appeared before our committee. Even in connection with the Foreign Investment Review Agency legislation, the minister appeared before our committee and repeated these undertakings. After our study of the White Paper and the Income Tax Bill which followed, and the Competition Bill which we dealt with and which we reported without amendment, there was attached to our report presented to the Senate a letter from the Minister of Finance setting out his undertaking. So that we have proceeded, I hope, carefully and sincerely without any thought of trying to make yards out of the situation, but just trying to be careful and not to do anything that could be considered or criticized as being improper.

Senator Hicks: Honourable senators, may I ask Senator Hayden if the committee was unanimous in support of the report before us now?

Senator Hayden: No, the vote was seven to one.

On motion of Senator Cook, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Senator Langlois: Honourable senators, I move, seconded by Senator Perrault, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until tomorrow, Tuesday, June 29, 1976 at 11 o'clock in the forenoon.

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

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 11 a.m.

APPENDIX

(*See p. 2262*)

MEMORANDUM OF UNDERSTANDING

BETWEEN:

THE MINISTER OF TRANSPORT

AND:

THE CANADIAN AIR TRAFFIC CONTROL ASSOCIATION (CATCA)

AND:

THE CANADIAN AIR LINE PILOTS' ASSOCIATION (CALPA)

IT IS HEREBY AGREED

1. THAT the public Commission of Inquiry which has been announced be composed of three (3) judicial appointees; the third being acceptable to CATCA before any public announcement of his appointment is made.
2. THAT a prerequisite to the expansion or introduction of any bilingual air traffic service be a unanimous report of the Commission declaring the proposed expansion or introduction to be consistent with the maintenance of current safety standards in Canadian air operations.
3. THAT the terms of reference now contained in Order in Council PC-1976-1576 should include a provision to the effect that "the Commissioners shall append to their reports any statement on the aspects of the inquiry reported upon, received from CATCA or CALPA within a specified period of time designated by the Commission".
4. THAT the terms of reference should include a further provision to the effect that "the Commissioners shall not in any of their reports indicate that safety has been demonstrated unless they can justify beyond a reasonable doubt why any contrary view expressed by CATCA or CALPA should not prevail".
5. THAT the terms of reference should be revised on page 1 thereof as follows:
   (a) In the preamble, by amending line 9 thereof to read as follows: "in relation to aviation safety, implementation costs and operational efficiency, and . . . ";
   (b) Further in the preamble, by amending line 13 thereof to read as follows: " . . . industry, and also upon such other matters as might influence . . . ";
   (c) In paragraph (d), by amending line 7 thereof to read as follows: " . . . to aviation safety, implementation costs and operational efficiency; and . . . ".
6. THAT the terms of reference should be revised on page 2 thereof as follows:
   (a) In paragraph (a), by amending line 1 thereof to read as follows: " . . . the Commissioners shall be authorized to prescribe . . . ";
   (b) In paragraph (b), by amending line 2 thereof to read as follows: " . . . and of Air Canada shall furnish to the Commissioners . . . ";
   (c) In paragraph (c), by amending line 1 thereof to read as follows: " . . . the Commissioners shall invite duly designated . . . ";
   (d) In paragraph (c), by amending line 3 thereof to read as follows: " . . . the aviation air carrier industry to be present and to . . . ";
   (e) In paragraph (d), by amending line 1 thereof to read as follows: " . . . the Commissioners shall be authorized to engage the . . . ";
   (f) In paragraph (e), by amending line 1 thereof to read as follows: " . . . the Commissioners shall submit interim reports . . . ";
   (g) In paragraph (f), by amending line 1 thereof to read as follows: " . . . the Minister shall table any interim reports and . . . ".
7. With reference to the "specially appointed professional advisers" mentioned in paragraph (c) on page 1 of the terms of reference, Transport Canada and CATCA will submit a joint list of appropriate controller advisers to the Commission.
8. THAT Transport Canada will submit before July 1 a recommendation to the Privy Council which the Government will process expeditiously and publish in the Canada Gazette at the earliest possible date as an air navigation order with regard to the use of language in the air, and Transport Canada undertakes to pursue the enforcement thereof.
9. THAT, following the tabling of the final report of the Commission in Parliament, the Government will present a resolution to the House of Commons seeking concurrence therein in a free vote.

This MEMORANDUM OF UNDERSTANDING was signed at Ottawa, on the 28th day of June, 1976, subject to acceptance by the membership of the Canadian Air Traffic Control Association.

The Honourable Otto Lang,
Minister of Transport

J. M. Livingston, President,
Canadian Air Traffic Control Association

K. A. Maley, President,
Canadian Air Line Pilots' Association

P.C. 1976-1588

CERTIFIED TO BE A TRUE COPY OF A MINUTE OF A MEETING OF THE COMMITTEE OF THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR GENERAL ON THE 28 JUNE, 1976

The Committee of the Privy Council, on the recommendation of the Minister of Transport, advise that, pursuant to Part I of the Inquiries Act,

the Honourable W. R. Sinclair of Edmonton,

the Honourable Julien Chouinard of Quebec City and

the Honourable D. V. Heald of Ottawa

be appointed Co-Commissioners to inquire into the safety of the introduction of bilingual IFR Air Traffic Services in the Province of Quebec, and report upon the implications in relation to aviation safety, implementation costs and operational efficiency, and upon the procedures (and methods of their development) being developed by the Department of Transport in conjunction with the aviation associations and the aviation industry, and also upon such other matters as might influence the further introduction of bilingual Air Traffic Services in Quebec, and, without restricting the generality of the foregoing, to consider, evaluate and report upon

(a) the parameters of a procedural study to be conducted by the Department of Transport based on the use of an air traffic control electronic simulator;

(b) the documentation required pertaining to the various procedures developed in order to facilitate evaluation of those procedures;

(c) the detailed conduct of the Department of Transport's studies and participation therein of representatives of the aviation industry and associations by monitoring, as appropriate, through specially appointed professional advisers if considered necessary, and by means of interim recommendations to the Department of Transport, the aviation industry and associations;

(d) the IFR procedures finally developed, and the VFR flight operations in Dorval and Mirabel Terminal Radar Service Areas, and St. Hubert Control Zone, in terms of the adequacy of the method used in developing and testing the procedures and the implications in relation to aviation safety, implementation costs and operational efficiency; and

(e) relevant matters that may in the course of the inquiry arise or develop and that, in the opinion of the Commissioners, should be included in the report.

The Committee further advise that

(a) the Commissioners shall be authorized to prescribe and adopt such practices and procedures for all purposes of the Commission, including hearings, as they may from time to time deem expedient for the proper conduct of the inquiry and to vary those practices from time to time;

(b) the officers of the Department of Transport and of Air Canada shall furnish to the Commissioners such information and assistance as they may require for their activities;

(c) the Commissioners shall invite duly designated representatives of aviation associations and the aviation air carrier industry to be present and to participate in the inquiry;

(d) the Commissioners shall be authorized to engage the services of such accountants, engineers, technical advisers or other experts, clerks, reporters and assistants as they deem necessary or advisable and also the services of counsel to aid and assist the Commission in the inquiry at such rates of remuneration including transportation and living expenses as may be approved by Treasury Board;

(e) the Commissioners shall submit interim reports promptly to the Minister of Transport on the results of particular aspects of the inquiry, and shall submit a final report with all reasonable dispatch and within ninety days of the receipt of the final results of the study based on the use of the air traffic control electronic simulator;

(f) the Commissioners shall append to their reports any statement on the aspects of the inquiry reported upon, received from CATCA or CALPA within a specified period of time designated by the Commission;

(g) the Commissioners shall not in any of their reports indicate that safety has been demonstrated unless they can justify beyond a reasonable doubt why any contrary view expressed by CATCA or CALPA should not prevail;

(h) the Minister shall table any interim reports and the final report in Parliament and report in Parliament at an early date on the implementation of such reports; and

(i) the administrative and related costs of the Commission shall be the responsibility of the Department of Transport.

The Committee further advise that Order in Council P.C. 1976-1576 of 23rd June, 1976 be revoked.

CERTIFIED TO BE A TRUE COPY
P. M. PITFIELD
CLERK OF THE PRIVY COUNCIL

THE SENATE

Tuesday, June 29, 1976

The Senate met at 11 a.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Master of the Royal Canadian Mint, including accounts and financial statements certified by the Auditor General, for the year ended December 31, 1975, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

CONFLICT OF INTEREST

REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS PRESENTED AND PRINTED AS APPENDIX

Senator Goldenberg: Honourable senators, I have the honour to present the report of the Standing Senate Committee on Legal and Constitutional Affairs on the Green Paper entitled "Members of Parliament and Conflict of Interest."

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

The Hon. the Speaker: Honourable senators, is that agreed?

Hon. Senators: Agreed.

(*For text of report see appendix p. 2303.*)

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

Senator Goldenberg: Honourable senators, the report will be distributed now in both languages, but as its recommendations are of concern to every senator I feel that every senator should have time to study it. I therefore move that it be taken into consideration on Thursday of next week, July 8.

Motion agreed to.

HABITAT

UNITED NATIONS CONFERENCE ON HUMAN SETTLEMENTS—QUESTION ANSWERED

Senator Perrault: Honourable senators, on June 15 last the honourable distinguished Leader of the Opposition asked a question about the Habitat Conference. His query was in relation to the press reports that the Canadian delegation—I believe his words were—"was frustrated," and "were these reports justified?"

The second part of his observation was that "conferences of this nature are being used as a platform for the promotion of irrelevant ideas and what is the view of the government on this?" Is it practical and useful for Canada to continue to participate in such conferences and should attempts be made to ensure greater relevancy? These are all excellent questions.

I have a brief statement to make on behalf of the government on this subject today, with the cooperation of the house. Honourable Senator Flynn's question concerned press reports that the Canadian delegation, along with other western delegations to Habitat, had been frustrated in its efforts at the conference, and on the views of the government on the effects of the introduction of irrelevant matters into the discussions at such conferences.

As a member of the Canadian delegation, I would like to assure the honourable senator that it is an exaggeration to say that the delegation was frustrated in its attempts to influence the proceedings of Habitat. I think that we made a significant contribution to the discussions, in particular in such areas as the control and value of land, the conservation of resources, the environment, the rights of indigenous peoples, the role of women, and the need for public participation in the planning and development of settlements. In addition, the conference warmly welcomed our proposal to establish a United Nations Audio Visual Libaray for Human Settlements at the University of British Columbia as part of that university's expanding program in settlements study, and as part of the United Nations' information program in this field.

● (1110)

The Canadian delegation achieved its major objectives in these and other topics discussed at the conference. Naturally, no nation ever achieves everything it wants to at conferences of this kind. There is bound to be what may be described as "give and take," compromise, but I believe that any view that the delegation was frustrated must be based solely on consideration of those few, highly political issues which intruded, for which it was not possible to find acceptable compromises.

As honourable senators are aware, almost 150 nations were represented at this conference, the largest UN conference ever held outside the UN headquarters of New York since the inception of the UN.

As for the government's reaction to the introduction of matters of questionable relevance into such conferences, our views have been quite clearly expressed both during the preparations for Habitat and elsewhere. We recognize the importance and the urgency of the issues, but we do not consider that they should be discussed at conferences dealing with general problems of an economic and social nature. The Mideast situation, for example, is in our view a matter which can be discussed more appropriately in the United Nations Security Council or General Assembly

than at conferences dealing with the status of women or human settlements. To discuss such an issue in these latter circumstances is unlikely to lead to a solution, and can detract from the main issues before the meetings, and that was the position of the Canadian delegation at the Habitat meeting.

But we must recognize that what is irrelevant to one nation may seem of critical relevance to another and that some nations may feel obliged to seize every conceivable opportunity to argue their case on some contentious issue. The members of the United Nations are sovereign states and may introduce into these conferences whatever matters they consider relevant. With respect to future conferences we shall continue to do our best to keep discussions on what we consider to be the best track, but we shall probably have to bear with a considerable amount of specific political content in conferences dealing with general matters of an economic and social nature.

It should be pointed out, however, that the introduction of these issues which we may consider extraneous does not nullify the work of these conferences in their basic subject areas. In this respect, it should be remembered that at Habitat the work of the three committees was largely undisturbed—and I can attest to that as chairman of one of the Canadian committees—by these issues which were put off for consideration by plenary session at the end of the conference. When considered, they produced some division and some bad press, but by then the real work of the conference was complete.

CITIZENSHIP BILL

THIRD READING—MOTION IN AMENDMENT—DEBATE CONTINUED

The Senate resumed from yesterday, the debate on the motion in amendment of Senator Laird to the motion of Senator Connolly (Ottawa West) for the third reading of Bill C-20, respecting citizenship.

Hon. Jacques Flynn: Honourable senators, since adjourning the debate on the amendment moved by Senator Laird last night I have had a few minutes to look into the matter. Clause 33 as it is in the bill before us, but which would be amended by Senator Laird's motion, deals with matters which for me raise certain questions.

In the first place, section 33, as proposed, would deal with the question of property and civil rights, which is, of course, a matter within the powers of the provincial legislatures; but there is a provision here which would give the lieutenant governor in council—and I emphasize this—certain powers to restrict the acquisition of real property by non-Canadian citizens. As far as I am concerned, by doing this the bill would invade a domain which does not belong to Parliament. It has been established, I think, by legislation passed in Prince Edward Island, which was affirmed by the Supreme Court of Canada, that we are here in a field which, as I have mentioned, is properly within the competence of the provinces, and not of Parliament.

My second point is that if, for instance, we were to say that Parliament has the right to legislate in this domain, Parliament would be purporting to delegate powers to the lieutenant governor in council and I do not think Parliament can delegate to the provinces the power to legislate in matters that belong to the federal government. Still less can it do so if the delegation is not to the legislature itself, but to the lieutenant governor in council. How can you enable the lieutenant governor in council to do things which Parliament claims are within its jurisdiction? I cannot accept that. My idea, as I said last night, is that section 33 should be struck out, purely and simply.

I have looked at the amendment proposed by Senator Laird, and after discussing it with him and with our legal counsel it seems to me that in fact the amendment would restore section 24 of the present act. Of course, if the Senate were to agree with that, I would have no objection, because in the present section 24 there is no delegation of powers to the provinces, or to the lieutenant governors in council; but in substance the present section 24, to my mind, deals with matters which are outside the powers of Parliament. Section 24 contains practically the same wording as the amendment, which is as follows:

> (a) real and personal property of every description may be taken, acquired, held and disposed of by a person who is not a Canadian citizen in the same manner in all respects as by a Canadian citizen; and
>
> (b) a title to real and personal property of every description may be derived through, from or in succession to a person who is not a Canadian citizen in the same manner in all respects as though through, from or in succession to a Canadian citizen.

All of this deals with matters that are dealt with in provincial legislation concerning property and civil rights. It is not because it is there in the present act that it changes anything.

Subclause (2) as proposed in the amendment is to me entirely useless, because it says:

> (2) Subsection (1) does not operate so as to
>
> (a) qualify any person for any office or for any municipal, parliamentary or other franchise;

Well, we know very well that the qualifications for municipal offices, for instance, are found in the municipal legislation in each province, where in each case it says that to be elected a mayor or a member of the municipal council or a school board, you have to be a Canadian citizen. The same thing obtains with regard to provincial legislation. The Election Act of each province provides for that. Federally it is provided in our Election Act that to be elected to the house or, as is provided for in the British North America Act, to come to the Senate, you have to be a Canadian citizen.

● (1120)

Then we come to (b) and (c) which say:

> (b) qualify any person to be the owner of a Canadian ship;
>
> (c) qualify any person to take, acquire, hold or dispose of any property that under or pursuant to any Act of the Parliament of Canada may be taken, acquired, held or disposed of only by Canadian citizens;

Well, honourable senators, if there is already legislation covering this, why mention it? If it is provided for in an act of Parliament, then that clarifies the matter. We do not have to recite that here. The same applies to (d) and (e).

In my view, honourable senators, the present clause 24 should not be there, because it is useless. Therefore, because I agree with the objection raised by Senator Laird on clause 33, I would strike out clause 33 entirely and renumber the following clauses accordingly. But if the Senate would feel safer in restoring the substance of clause 24 which does not delegate any power, and which does not do anything which is provided in the new clause 33, then I have no objection. Therefore, I would like to move a sub-amendment to Senator Laird's amendment which would strike out all the words after "clause 33", and add that the following clauses be renumbered accordingly.

If this sub-amendment is not accepted, then I would certainly support Senator Laird's amendment, but technically speaking I would have preferred the sub-amendment which I am now moving.

Senator Laird: Would the honourable senator permit a question?

Senator Flynn: Certainly.

Senator Laird: In view of the mechanical problem involved here and in view of the fact that I know that Senator Macnaughton wants to speak on the principle of the amendment, would the honourable senator permit me to take sufficient time to consider with the Law Clerk, as he knows I have started to do, the problems raised? Would he permit that?

Senator Flynn: Do you want to adjourn the debate at this time?

Senator Laird: Well, I know Senator Macnaughton wants to speak. If, after he has concluded his remarks, we come to a noon adjournment, I might then be able to arrive at a decision as to whether the way I suggest doing it is mechanically right or whether your way is mechanically right.

Senator Flynn: I do not think your way is wrong, but I prefer mine. I have no objection to an adjournment of the debate until later this day in order to enable you to look at the problem.

Senator Laird: Might I ask Senator Macnaughton if he wants to proceed now?

Senator Macnaughton: Well, honourable senators, I would like to go on. My remarks will be reasonably brief, and I hope they will be of some assistance in the debate.

Senator Flynn: Then the question on the sub-amendment can be put.

Senator Macnaughton: I am certainly not in conflict with either the amendment or the sub-amendment.

Senator Smith (Colchester): Honourable senators, I do not wish to intervene in this discussion at this time except to say, since it has been said that so and so wishes to speak, that I would like it to be known that I too would like to speak in due course.

The Hon. the Speaker: Is it the wish of honourable senators that the question on the amendment to the amendment be put now, or is it their wish to wait until later?

Hon. Senators: Later.

The Hon. the Speaker: Is it agreed?

[Senator Flynn.]

Hon. Senators: Agreed.

Hon. Alan A. Macnaughton: Honourable senators, due to an accident of geography I happen to be sitting beside the sponsor of this bill of which, according to the *Minutes of the Proceedings,* I am the seconder. However, I do not believe I am out of order, because that is a procedural matter, and Senator Laird's amendment was moved after the question on the motion for third reading of the bill was put.

Senator Grosart: Sober second thought.

Senator Macnaughton: Yes, sober second thought. The motion in amendment incorporates some of the objections of the Canadian Bar Association, Real Property Sub-Section, which I feel should be taken into very serious consideration and not just cast aside. Briefly, the evidence of the representatives of the Real Property Sub-Section of the Canadian Bar Association before the committee amounted to seven points. At least, I noted seven, but there certainly were four which I would like to put on the record because in my opinion they have not been considered sufficiently carefully.

The first suggestion of the Canadian Bar Association was:

> (1) No Province has yet prohibited the acquisition of real property by non-Canadians although some have set out conditions for such acquisitions. Section 33 is the first Act to specifically prohibit the acquisition of real property by non-Canadian citizens.

The second suggestion was:

> (2) The retroactivity of the right to annul set forth in section 33(2) will undoubtedly upset the principle of certainty of title which is a foundation-stone for commercial transactions and, in particular, loans secured by mortgages.

Their third suggestion, or criticism,

> (3) The section gives too much discretion to the Provinces to decide which transactions and which persons or corporations are to be subject to the law and will most likely result in ten different sets of regulations reflecting local economic aspirations.

The fourth criticism was:

> (4) Section 33 appears to be more legislative than administrative in nature and its constitutionality could be called into question.

To these specific suggestions I would like to add three more, referring to them as (5), (6) and (7) in order to maintain the sequence. Suggestion (5) would be:

> The strict liability provisions of Section 33, subsections (4) and (5), should be deleted and replaced with a provision which protects the individual who has acted in good faith and without criminal intent.

I shall not go into detail, because we did so to some extent in committee.

Suggestion (6) is:

> If the government wishes to delegate power to deal with land holdings by aliens, the government should delegate the power to the provinces generally (assuming they have the right to do so, which is questionable)

and the provinces can then make aliens subject to provincial laws.

Suggestion (7) is a technical modification, and is as follows:

> The exemptions set out in the bill, which are those transactions approved by the Foreign Investment Review Agency, should be expanded to include all transactions which are exempt from review under the terms of the Foreign Investment Review Act.

In the light of these serious objections and suggestions made on behalf of the Canadian Bar Association by its Real Property Sub-Section I feel compelled to support the amendment. However, in spite of the urgency of the citizenship legislation and the provisions contained therein, which I know are needed at this time, I suggest that consultation on an informal basis be commenced before requesting or taking final rigid positions with respect to the legislation. The minister could solve the difficulty very simply by proclamation. He can proclaim most sections of the legislation, with the exception of section 33. We asked in committee that he do this, but I understand that he was not much impressed with the suggestions. It is therefore up to the minister, but those are the suggestions of the Real Property Sub-Section of the Canadian Bar Association which I feel should be very carefully considered. Without going into any more detail, the financial implications are serious, and the inability to give formal and good title could bring chaos to commercial transactions generally.

● (1130)

Senator McDonald: At the beginning of his remarks, Senator Macnaughton referred to the fact that no province had passed legislation restricting land holdings. Would he repeat what he said?

Senator Macnaughton: These are not my words. They are taken from the Real Property Sub-Section of the Canadian Bar Association.

> No Province has yet prohibited the acquisition of real property by non-Canadians although some have set out conditions for such acquisitions.

Senator Flynn: Residences.

Senator Macnaughton: It continues:

> Section 33 is the first Act to specifically prohibit the acquisition of real property by non-Canadian citizens.

Hon. George I. Smith: Honourable senators, I wish to say that I concur in the sub-amendment proposed by the Leader of the Opposition, and also with his expressed feeling, so that if by chance his sub-amendment is not acceptable I am prepared to support the amendment. This seems to be a blank cheque statement, but I concur in all the reasons put forward by the mover of the amendment, by the Leader of the Opposition, and by Senator Macnaughton. However, I wish to add one or two remarks which appear to me to be relevant.

If it is the law that Parliament may deal with this subject—which seems to me to fall entirely within the provincial jurisdiction—and, in fact, Parliament has jurisdiction to do all that section 33 purports to do, we should consider for a moment the actual merits or demerits of such legislation.

I wish to mention one or two points which have not been mentioned and to emphasize others. I am certainly not an authority on international law, if indeed I am on any kind of law, but I am not aware that it is common practice, in what these days we generally refer to as the developed world, to have this kind of legislation. I know it exists in some countries, but I am inclined to doubt whether it is of general application throughout most of the countries of the developed world.

If that be so, it seems to me that we should consider very carefully whether we wish to become involved in this kind of legislation, which carries with it what appears to me to be so many imperfections, or worse. For instance, it might also invite other countries to follow, using Canada as a precedent, or, if that is not the case, to invite retaliation.

Let us next consider for a moment the citizen who will be affected by this kind of legislation, who would be affected by this bill if it is passed, and if the action envisaged under section 33 is, in fact, taken by the provinces.

In very large measure the land which would be affected by such legislation is not the land of wealthy people. It is not land owned by great corporations. In very large measure it is the kind of land similar to that in the province from which I come, owned by ordinary individuals, many of whom are farmers, fishermen, foresters, and many of whom throughout a lifetime of hard work and thrift have looked upon the land, and the improvements they have made to it, as some kind of security for themselves and their spouses when their ability to work hard is diminished because of approaching age.

There is absolutely no doubt about it in my mind. I see it firsthand and have occasion to deal with it from time to time, and have had quite recently. This type of legislation would deprive the owner—the ordinary farmer, fisherman and lumberman—of the opportunity to make a good sale, if that is what he wishes, as the sunset time of life is faced and his ability to earn is either diminished or, in large measure, has vanished. This type of legislation would take that opportunity away from him. It would diminish his market, and we all know that when the scope of a market is diminished, the number of prospective purchasers is diminished, then the prospect of a good sale also diminishes.

This type of legislation would, in effect, make it impossible, in many cases, for such a citizen in my province, which is the only province I am prepared to say I know something about, to negotiate the type of sale he could have negotiated were the market not diminished. To that extent, at least, it not only deprives that individual of the opportunity of making the best of a lifetime of effort and to have some opportunity to offset the inroads of inflation—and I am not now talking about the type of inflation we have debated here on so many occasions, but inflation generally as it has taken place in the erosion of the value of the dollar—it amounts, I suggest, to expropriation without compensation of a substantial part of the value of such land.

Therefore, if Parliament has the jurisdiction—and I certainly doubt that it has it constitutionally—to deal with this type of legislation, we should be very careful, it seems to me, to lend our encouragement and to give our approval

to this type of thing without the most careful examination, and without making sure that we understand exactly what the effect of such legislation would be upon the ordinary citizens of this country, if I may use that term without in any way being critical, and satisfy ourselves that the ends to be gained by this type of legislation outweigh the very grave disadvantages which might accrue, and, indeed, would accrue if such legislation were passed, to a great number of our citizens. That is the point I wanted to make, and which I had not heard discussed earlier in this debate.

Another point I want to emphasize has been raised, I think, by all three honourable senators who have preceded me in this debate, and that is the effect of this legislation on titles. If one has not been engaged actively in the work which requires the certification of title, the investigation of title before certification, it may be a little difficult to appreciate the full implications. Looking at it from the point of view of the owner of a piece of land, or the prospective purchaser—the owner who wants to mortgage the property, or the prospective purchaser who wants to buy it—these individuals depend, in large measure, upon a search of title, or certificate of title, which is acquired at a proper price from some person, a lawyer, who is authorized by law to give such certification. Once the lawyer gives it, he is responsible for its being right, regardless of what he may have missed—regardless of what obscure or difficult-to-find provision of law affecting title he may have missed. If he is wrong, he pays for it.

● (1140)

From the point of view of the owner of the land, or the prospective purchaser, such difficulties regarding title are certainly substantial obstacles to real estate transactions and, indeed, the security of property. From the point of view of the people who have to guarantee such titles in some systems—I appreciate it is not so in all provinces of Canada—it is indeed a tremendous burden, and one for which they have to take out the appropriate kind of insurance. Of course, the more chance there is of these people being wrong in their certificates, the more chance there is of the insurance companies being called upon to respond under their policies, and the higher the premiums go. It would be very easy to get into a position analogous to the problem some professions have these days of getting liability insurance at all.

While concurring in the views that have been put forward by those who have preceded me in this discussion, I do want to draw particular attention to the argument that if, indeed, Parliament has the jurisdiction to act herein, then we should examine the merits of what we are going to do before we do it.

Hon. Eugene A. Forsey: Honourable senators, I venture to intervene in this debate, partly because I was present at most of the meetings of the committee and heard a good deal of the argument on the subject, though I unfortunately missed the final meeting, at which I understand the Minister of Justice delivered himself of some opinions on the matter, which apparently carried conviction to the committee, though I think had I been present I might have cherished still certain doubts.

There are certain aspects of this which either have not been touched on so far or have been touched on only very marginally which I should like to raise. I am in favour of the amendment proposed by the Honourable Senator Laird, for reasons which have already been given adequately by other honourable senators who have spoken in the debate. However, I should like to have someone qualified to do so say something about the question of jurisdiction over aliens, because my understanding of subsections (2) to (7) is that they were put in to enable the provinces to pass legislation which would prevent aliens but not other Canadians from outside the province, Canadian non-residents of the province, from holding land. My impression was that the purpose was to narrow to some extent the kind of legislation which the provinces might be wishing to pass on this subject, so that non-residents who are Canadians would not find themselves in difficulties that would arise because of the fact that the province was obliged under its jurisdiction simply to say, "Non-residents without qualification."

I am inclined to wonder whether the Dominion jurisdiction over aliens might not have some bearing on the question of the extent of provincial jurisdiction under property and civil rights in the subsections which Senator Flynn in his sub-amendment would strike out. I should like to hear that discussed by someone qualified to do so. I am not qualified to do so myself, and I do not propose to say any more, but simply to raise the question. I hope that when the sponsor of the bill (Senator Connolly, Ottawa West) replies he will deal with that particular part of it.

On the question of delegation, I confess that at first I was inclined to think the delegation was warranted, that this delegation to the lieutenant governor in council fell within the creteria laid down in the *Willis* case. However, on reconsideration I am not quite so sure about that. It seems to me quite clear, in the first place, that Parliament cannot delegate its jurisdiction simply to a provincial legislature. The Nova Scotia interdelegation case seems to have settled that quite clearly. It seems clear also that the *Winner* case and various others have made it clear that Parliament can delegate, not its legislative power but the administration of a Dominion act to a provincial body such as a provincial public utility board, or something of that kind.

I have never heard it questioned that the act which Parliament passed after the decision in the *Winner* case was invalid, or that the mere administrative delegation, saying to a provincial body or board of some kind, "You shall be deemed to be a Dominion body for the purposes of this act," was a valid exercise of the power of Parliament. When it comes to delegating to the lieutenant governor in council, I think it possible that that may be another kettle of fish.

After the meetings of the committee I had the advantage of reading the argument of Professor Lederman in the *AIB* case before the Supreme Court of Canada on Question 2, dealing with the validity of the Ontario Government's action in making that agreement with the Government of Canada without legislation. That increased my doubts about this provision delegating power to the lieutenant governor in council to act as an agent of the Government of Canada.

I do not feel entirely positive about it. I just think there is a question here, and a serious question. It seems to me it would be very unfortunate to pass this legislation and then

find that we have got a decision of the Supreme Court of Canada on Question 2 in the *AIB* case which showed that this kind of delegation was improper, that it was colourable legislation, that it was an attempt to do by indirection what Parliament under the terms of the decision in the Nova Scotia interdelegation case cannot do directly. I feel, therefore, it is a very dubious piece of legislation to put on the statute books. It may simply blow up in our faces very shortly after it has been enacted if we get that kind of decision from the Supreme Court of Canada in the *AIB* case.

I think that is really about all I wanted to say on this, except that I am inclined to ask a couple of questions about Senator Flynn's sub-amendment, although I suppose this would be out of order at this stage, and perhaps I had better wait and raise those questions later when the sub-amendment is actually under discussion.

I really wanted to know about two points: first, the effect of the fact that the Parliament of Canada has jurisdiction over aliens. I am not sure how far that enters into the discussion on this particular amendment to this clause. I should like to hear an authoritative opinion on the subject. Secondly, I am a little bit dubious about whether what is provided in clause 33 is in fact the kind of administrative delegation which, under the decision in the *Willis* case and the *Winner* case, Parliament is entitled to engage in.

Senator Lang: I wonder if I might ask the honourable senator a question, because of his acknowledged expertise in these areas. Could he tell us why a province is limited to restricting ownership to those persons who are residents? In other words, could not a province restrict ownership to "Canadian citizens," as defined under the federal Citizenship Act, thereby avoiding the necessity for this kind of clause?

Senator Forsey: I rise with diffidence to reply to that question from a learned honourable senator. My impression is yes, the province of course can simply say, "We forbid non-residents of any kind or description to own property." It apparently cannot say, "We forbid aliens to own property." It can just say "non-residents" like that, and that includes Canadian citizens, non-residents and aliens as well. I thought the purpose of this was to make it plain that the province could say henceforth, "Oh yes, ownership of property by Canadian citizens, that is fine. We do not care about that. But we do not want to have the foreigners having ownership of property." I thought that was the purpose of the thing. I thought there was some obstacle to their simply passing an act dealing with ownership by foreigners. They could pass an act dealing with ownership presumably by anybody but they couldn't pass an act dealing specifically with ownership by foreigners. So, in order to keep the foreigners out, they had to keep other Canadians out, Canadians from outside the province. I thought the intention was to put them in a position to say, "We will keep out foreigners but we will not keep out other Canadians."

● (1150)

That is about the best kind of answer I can make I am afraid and it is a rather muddled one, but that is because I am treading on ground with which I am not at all familiar.

Hon. A. Hamilton McDonald: Honourable senators, there are one or two points I want to make with respect to this legislation. I am not a lawyer and so I have no idea whether the federal government has the power to delegate this authority to the provinces, but it seems to me that if you are going to delegate power to the lieutenant governor in council, then all a provincial government need do is pass an order in council without any public discussion, without any information being given to the public of that province. In this way it would bring a situation into being that I doubt very much the majority of those people would be in favour of if they were aware of what the order in council meant. It seems to me that if you are going to give this power to the provinces—to which I object in the first place and I will tell you why in a few moments—it ought to be the legislature, in order to generate a debate so that the general public may know what the new law means to them.

I would now turn to what Senator Macnaughton mentioned earlier on, and the question I asked of him was to confirm what the Canadian Bar Association had in mind when they said that no province had passed legislation prohibiting the ownership of land in a province. What is the situation in my province of Saskatchewan? In my view they have passed a law, as far as the ownership of land is concerned, which no Canadian ought to put up with. What would happen on the death of a farmer living in Saskatchewan who had willed his farm or his country estate or his city dwelling to his son or his daughter or his mother, but none of them happened to reside in Saskatchewan? The recipient of that property must either within 12 months become domiciled in the province of Saskatchewan or sell the property, or the provincial government will sell it on his or her behalf. Is this the type of law, is this the type of legislation that we as Canadians want? Surely none of us want to be prohibited from owning land in some province in which we do not happen to reside.

To go even further than that, do all of us want to be prohibited from some day buying a cosy nest in a warmer climate than we have in Canada? How many Canadians are buying property in the southern United States for retirement? Do we want the State of Arizona or the State of California to say, "No, you cannot own property here because you are not an American citizen?" Then why should we say to Americans who want to buy a home in Canada, "No, you cannot do that; you are not a Canadian."

Is this the kind of world we want to live in? Sure, there is a provision under section 6 for immigrants to buy property when they come to Canada. The great reason that the vast majority of our forefathers came to this country was they had the right to own property. Why should we not have the right to own property in any province in Canada? If we pass this legislation without amendment we are not going to have that right. I do not want to be prohibited by law from owning property in another country, but that would be the end result of this type of legislation. I do not believe that Canadians generally want to be restricted to owning property only in the province in which they live, or that if they will their property to a member of their family, that member, in order to hold the property, would have to move to that province, as is the case under the present law in the province of Saskatchewan.

I despise this type of legislation. It is not for a free people in a free world. I am going to support either the proposal of the Leader of the Opposition or the proposal of Senator Laird, for I am violently opposed to the government's placing restrictions upon the holding of land in Canada by Canadians, which is the situation in my own province today.

One of the main reasons I disposed of all my property in Saskatchewan, except that which I have to retain in order to sit in this place, is the provincial law. I have four sons and one daughter but I could not leave my property to them. None of them live in Saskatchewan. None of them have any intentions of living in Saskatchewan either, as long as the present government is there. To inherit my property they would have either been forced to return to Saskatchewan to live or the provincial government would have sold my property on their behalf.

If this is the kind of legislation you want, support the bill.

Hon. John J. Connolly: Honourable senators, as sponsor of the bill, I suppose at this stage I should intervene and speak to the amendments. I am inclined to say to the Leader of the Government, and to the Leader of the Opposition, that we are getting into very technical areas in our discussion today and these points, which are technical points, have been raised by a good many senators. Rather than taking any further steps at this time it might be more appropriate for us to consider returning the bill to committee for the purpose of hearing the Minister of Justice again. I would hope, if this is done, that all honourable senators who have spoken thus far in the debate will be present in order to satisfy themselves.

There may be a procedural difficulty, in view of the existence of one amendment and perhaps another half amendment, respecting just what steps should be taken. However, I think it might not be inappropriate to consider that course of action.

Perhaps I can help a little bit in solving some of the problems that bother a good many senators. I should begin by saying something about the history of the situation which is intended to be covered by this bill. In 1972, as honourable senators know, the Legislature of Prince Edward Island passed a measure which prohibited non-residents of the province from acquiring land in area of more than 10 acres, or shoreline longer than 5 chains. This prohibition extended to non-residents of the province. It excluded not only aliens but also Canadian citizens from other provinces from having larger holdings.

● (1200)

In 1974 Saskatchewan passed a piece of legislation which applied to non-residents of the province, prohibiting them from owning larger tracts of agricultural land there. I will not go into the reasons for that legislation, because it is obvious from the kind of discussion we have had just what the intention of the legislature was.

In 1974 Ontario took a different kind of step when it imposed a 20 per cent land transfer tax upon transfers to non-residents of Canada—not non-residents of Ontario. Senator Flynn mentioned last night that the 1976 budget of the Province of Quebec indicates that it may take a step similar to that taken by Ontario.

[Senator McDonald.]

Senator Flynn: I understand they are hesitant to do so, though. I understand the Government of Quebec has had second thoughts about that proposal.

Senator Connolly (Ottawa West): That could be; I am really not familiar with it. I was basing myself on Senator Flynn's statement last night because of the fact that I am not familiar with that provision of the Quebec budget.

On the question of law with reference to these provincial enactments, the authority would appear to be *Morgan et al vs. Attorney-General for Prince Edward Island et al*, a case decided by the Supreme Court of Canada. For the record, that is reported in (1975) 55 D.L.R. (3d), at page 527. This was a decision of the whole court, and the judgment was written by the chief justice. In fact, it confirmed a decision of the Supreme Court of Prince Edward Island in the *Banco* case presided over by Chief Justice Trainor, in which Mr. Justice Bell and Mr. Justice Nicholson participated, and which is reported in (1974) 42 D.L.R. (3d), at page 603.

The point about these judgments is that the courts found that the pith and substance of the law enacted by the Legislature of Prince Edward Island with regard to a prohibition in respect of certain aspects of land tenure for non-residents was a subject matter of the character of property and civil rights within the province, and that it was within the power of the provincial legislature to pass that legislation. As a result of those decisions, therefore, the provinces have had confirmed to them the right to regulate land tenure in the province and, under certain conditions set out in the legislation, to preclude non-residents from holding land in the province whether they be aliens or Canadian citizens. I think it is rather important for all honourable senators to understand that point thoroughly, but perhaps I am over-emphasizing it since I am sure it is clear to most of us.

The passage of this legislation in Prince Edward Island raised certain problems for certain premiers, I am told. At the federal-provincial meeting held here in May 1972 those premiers aired their problems. They said that the exclusion from holding land in a province, as it was applied to Canadian citizens who were non-residents of the province, created problems for some of them. For example, there are probably many people from Nova Scotia and New Brunswick who have summer places in Prince Edward Island. Those people were concerned, and so were their premiers, about what their rights might be if the law continued as it was.

I was not at the conference, of course, but I am told that it was suggested that the proscription or preclusion should be limited to a restriction against foreigners and should not apply to Canadian citizens. They asked what, if anything, could be done to deal with the question of aliens and their right to hold land in light of section 91(25) of the British North America Act. That section, as senators know and as Senator Forsey mentioned again this morning, gives the federal authority the jurisdiction to legislate with respect to aliens.

Following the discussions at the federal-provincial meeting, officials from the federal government and from all of the provinces held meetings—two in November 1972, one in January 1974, and two in April 1974. I am told that some of the best constitutional legal talent in the country was

present at those meetings, which were held to try to work out some *modus vivendi*. The result of those discussions is the provisions contained in subclauses (2) to (7), both inclusive, of clause 33 of the Citizenship Bill as it is now before the Senate. Following the discussions and the agreement made between the officials of both the provincial and federal authorities, the Prime Minister of Canada wrote to each of the premiers in September 1974 to say that, if they desired it, the government would place before Parliament this recommendation from the meeting of the officials, which, as I say, is contained in subclauses (2) to (7) of clause 33 as we have it before us. Most of the provinces accepted this proposal. Those which did not seem to be rather indifferent, because apparently they have no intention of trying to legislate in the field of restricting land tenure within a province.

Last night Senator Flynn raised the question of delegation, and Senator Forsey raised it again today. My attempt to deal with the matter may not be considered adequate by either of those distinguished constitutional experts but, on the basis of what I have been told about what went on, I can say that the delegation is of a limited power to act with respect to aliens. It is not a limited power to act with respect to property and civil rights within the province, because the federal authority has no right to deal in that area. But the federal authority does purport to legislate with respect to aliens, and the agency or entity—not emanation but perhaps organization—in the province selected to be a delegate, as has been said and as appears in the bill, is the lieutenant governor in council in the province concerned.

● (1210)

It is clear, as Senator Forsey has said, that Parliament cannot delegate a legislation-making authority to a provincial legislature, and cannot abrogate the powers that have been conferred upon it by the Constitution. It can only change the distribution of legislative authority as between the provinces and the federal authority by an amendment to the Constitution. I think it is fair to say, however, that in constitutional usage and practice the federal authority can delegate administrative authority and authority to make regulations.

I am informed that subclause 33(2), which purports to authorize the prohibition, or annulment, or restriction of interest in real property in the provinces, is a delegation of an administrative authority. I suppose it is possible to get into a debate on the use of language, or semantics, in that area, but this is the bald proposition that is given to me to justify the proposal, and this is the rationale that was given by Mr. Strayer, the Assistant Deputy Minister of Justice, when he was before the committee. As an example, a parallel is drawn between the situation here and the situation in section 189 of the Criminal Code, which prohibits lotteries, but which, by subsection 190(1), paragraphs (c), (d) and (e), provides exceptions in terms of which the lieutenant governor in council is authorized to license organizations, institutions, and perhaps even individuals, to conduct lotteries.

Senator Flynn: Would the honourable senator at this point permit me to say that the administration of justice is mentioned specifically in the British North America Act as coming under the jurisdiction of the provinces.

Senator Connolly (Ottawa West): There is no question about that. The administration of justice is their responsibility.

Senator Flynn: Then it is not a true parallel that you are giving us.

Senator Connolly (Ottawa West): What I am saying is that these sections of the Criminal Code, section 190 particularly, are explained to me as dealing with situations that are parallel to the one that we have here.

Senator Flynn: They may be explained to you, but they are not explained to me.

Senator Connolly (Ottawa West): I do not say that I accept the explanation, and it is because of the individual problems that arise that I felt that this bill should go back to committee, where they can be better dealt with.

With reference to subclause 33(3), the officials argue that this is a regulation-making authority, and the precedent they put forward as a parallel is the Motor Vehicle Transport Act of 1953, which is to be found in chapter M-14, volume V, of the *Revised Statutes of Canada*, 1970. In this act the federal authority conveys or authorizes or delegates to a provincial authority the right to license for extraprovincial undertakings, and to make regulations in respect thereto. I must say to Senator Flynn that this parallel seems to be a good deal more cogent than the first one concerning lotteries.

This legislation, despite what Senator Macnaughton said respecting the Canadian Bar Association's submission to the effect that this is legislation prohibiting the holding of land, does not in fact do that. It is simply enabling legislation. A province is not required to restrict the foreign control or ownership of land, even if this legislation passes. Certainly clause section 33, of itself, does not restrict the foreign ownership or control of land. It authorizes the making of regulations which can have that effect, but it does not do it of itself. If a province desires to legislate with reference to foreign ownership of land, it must do so by using the formula provided in clause 33. It must do this as agent or delegate of the federal authority, and it must do so subject to the same safeguards as are provided when the federal authority regulates, which are a review of the regulations in question by the Office of the Clerk of the Privy Council, and a review by the office of the Deputy Minister of Justice. They are also, of course, subject to the scrutiny of the Standing Joint Committee on Regulations and other Statutory Instruments, the chairman of which is just leaving.

The question is: Will the provinces use this authority? I think the answer has to be that in certain cases they probably will, but probably not if they feel it is going to stifle needed foreign investment. For example, by simply reading the newspapers we know that the Premier of Alberta has been abroad on several occasions within the last year or so urging foreign investment in his province, as have the Premiers of Ontario, Quebec, Nova Scotia and, recently, Saskatchewan. In any event, honourable senators, provincial action cannot override the effect of the Foreign Investment Review Act, and any approvals given thereunder.

Senator Flynn: Are you sure?

Senator Connolly (Ottawa West): This section really provides an opportunity for such provinces which may wish to do so, to legislate with regard to non-residents, and spread the net very wide so as to include in it not only aliens but Canadian citizens as well, to restrict their proscriptions about land tenure to aliens. This was the problem that the premiers had, because some of them were legislating in this rather broad way, and others thought it would be better to try and restrict such legislation to aliens.

Let us remember also that it does not mean, as Senator McDonald suggested, that you cannot buy a house in Prince Edward Island. The prohibition is against owning more than 10 acres of land, and against owning more than five chains—I forget what that distance is—of waterfront. In other words, it is an invitation to the provinces, if they feel they must legislate in this field for whatever reasons they may have, not to include within their net Canadian citizens, but to restrict it exclusively to aliens.

I have not dealt with all of the problems raised this morning because I am rather hopeful that most of the points that were raised by individual senators, and which are serious points, could be dealt with more effectively if we were to go back to the committee and discuss them with the Minister of Justice and his officials. I hope what I have said, however, will at least clarify some of the problems that certain senators have.

Senator Smith (Colchester): Honourable senators, I wonder if I might ask Senator Connolly a question with relation to the arguments put forward to justify the provisions of subclause (2).

Senator Connolly (Ottawa West): I must say I do not like the arguments, but go ahead.

Senator Smith (Colchester): I am not being critical of you, senator. My purpose is only to ascertain the ingenuity which was exercised by those who argued that the phrase, "to prohibit and annul or in any manner restrict the taking or acquisition . . . of . . . any interest in real property," could have its pith and substance related to aliens.

● (1220)

Senator Connolly (Ottawa West): Well, honourable senators, the question of property and civil rights, and the question of the right to legislate with respect to aliens, are not matters that are easy to discuss in the chamber. I think that can be done more effectively in committee. If we are dealing with the pith and substance of property and civil rights, then I think there is no question but that they are within provincial jurisdiction; but if in respect of land tenure we want to single out aliens and say they shall be prohibited from doing thus and so, then I think section 91(25) of the British North America Act comes into the argument because we may be legislating in respect of the subject matter of aliens which comes exclusively within federal jurisdiction. That is why this device was dreamed up by the officials to delegate that administrative authority.

Senator Laird: Honourable senators, having in mind what I said earlier, and the very interesting suggestion just made by Senator Connolly (Ottawa West), and my own desire to consult further with the Law Clerk, would honourable senators agree to an adjournment of this debate until later this day? This will give me a chance to arrive at some conclusions.

By the way, I would ask that the Orders of the Day be amended to show Senator McNamara as the seconder of my motion, because he is the seconder and not Senator Michaud.

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

Hon. Senators: Agreed.

Senator Flynn: I suggest that the committee be called in the meantime for an informal meeting.

Senator Croll: But the debate is adjourned until later this day.

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

Hon. Senators: Agreed.

APPROPRIATION BILL NO. 3, 1976

SECOND READING

Leave having been given to proceed to Order No. 5.

The Senate resumed from Wednesday, June 23, the debate on the motion of Senator Langlois for second reading of Bill C-93, for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.

Hon. Allister Grosart: Honourable senators, we are dealing with Appropriation Bill No. 3 of the current fiscal year which is in the usual form of granting to Her Majesty certain sums of money with the consent of the House of Commons and the Senate—and I want to point that out—for the balance of the year. In other words, this is an interim supply bill which asks that the remaining $13 billion in the main estimates be approved for spending by departments and other agencies of the government.

The total main estimates this year were $38.4 billion, and when the main estimates were referred to the National Finance Committee of the Senate they were discussed in some detail and a report was made by the committee. I am glad to say that the report was in this particular instance made to the Senate a considerable time before this bill arising from the main estimates came before us.

It has been my experience over a good many years, as a member of that committee, that the more we examine the main estimates in that committee and in this chamber, the more opportunity there is for the Senate to make a real contribution in this very important field of government expenditure. I say that because on a number of occasions recently the minister, the President of the Treasury Board, and his officials have pointed out that some of the changes, some of the more useful changes that have been made in the presentation of the estimates and appropriation bills have been the direct result of suggestions made in that committee. We are still, of course, trying very hard to achieve what we have sought for many years, going back to the days when Senator D'Arcy Leonard was chairman of the committee, and that is the actuality of the restriction of the increases in federal government expenditures to the level of the increases in the GNP. I am glad to say that it

has now been announced as government policy, and also that the President of the Treasury Board is, in my estimation, making a valiant effort to see that the policy is being implemented. So far it has not been implemented, and I doubt if it will be in the present year, or next year, unless considerable pressure is brought to bear on the government to make that very important principle effective in its spending policies and in its spending intentions.

I said that further intensive examination by the Senate of these main estimates will serve a useful purpose, because the situation today is that there is great concern evidenced by those professional budget watchers in the country—not all academics, not all economists and not all lawyers, but representatives of many organizations, business and labour. There is concern that there is a lack of realism in the federal government's approach to expenditures and also in its presentation of the estimates and the other methods used to explain its spending intentions. An example of this is contained in an article written in the current issue of the *Financial Times*, which draws attention to the fact, and I quote:

> Some of Canada's most closely guarded secrets are not military but economic.
>
> The federal government refuses to publish its forecasts for the economy—or even its own spending—in any detail. And these secrets are kept from the provinces as well as the public. When provincial finance officials are briefed by their Ottawa counterparts these days, it is by way of graphs and bar charts so the provincial people get no papers or exact numbers to carry away with them.
>
> This is in contrast to the situation in Washington, where the U.S. administration is now required by Congress to publish five-year projections of the main economic indicators and of government spending on existing programs.

This merely draws attention again to an aspect of government spending policy that has been pointed out over and over again by our committee. Neither Parliament nor the committees of Parliament appear to have all the facts that are needed to make a full examination of the estimates.

● (1230)

The solution would appear to be a much more realistic approach by the government to this whole problem of spending, announcing its spending intentions and having approval given by Parliament. On an earlier occasion I indicated some of what I term the excuses—and which the government would term explanations—for some of the problems which arise. The one that is perhaps most often used to discount the level of federal government responsibility for its high spending is, of course, the matter of transfers. We are told that the government really only spends approximately 20 per cent of the money, the rest being transferred to other people. I say that, whereas there is some justification for that, the government is now carrying it to the extreme of utter absurdity. That is a strong phrase, and I leave it to honourable senators to decide whether it is too strong.

In a release by the Treasury Board dated February 18 of this year we have this extraordinary statement of justification of transfers:

> Canadian bondholders—both individuals and institutions—will also get substantial payments from the federal government; since the Public Debt of Canada is held mostly by Canadian citizens, the bulk of the $4,650 million to be "transferred" by the Department of Finance in the form of interest, amortization and other servicing charges will add to their income.

So we now have the extension of this absurd argument to the point at which the Treasury Board tells us that the more we go into debt, the more money we are transferring to Canadian individuals and institutions. I hope that will put some kind of a stopper on this absurd and continued use of this excuse of transfers. In other cases there are indications of the extremity to which absurd thinking will lead even as august a body as the Treasury Board.

I made an earlier comment, again on the estimates, to the effect that at the present time, in spite of all the protests to the contrary, the increase in federal government expenditures during the last year was greater than the increase in provincial government expenditures in total. In replying to me, Senator Carter said that he did not understand my figure and he quoted me as follows:

> The fact is that in the last fiscal year federal government expenditures increased by 16 per cent, . . .

And I was generous there. Senator Carter's quotation of my statement continued:

> —and those of all provincial governments increased by only 11 per cent—

Senator Carter said that he had discussed this with the officials and it was difficult to understand how this could have happened. He said:

> I asked the Treasury Board if they could provide me with figures to account for this drastic decrease.

However, I had not mentioned a decrease, but said there was a lower increase, which is hardly a decrease. Senator Carter continued:

> They, frankly, were unable to do it. The figures they gave me are as follows:

I will not go into all the detail, but he said finally:

> According to the figures I received from the Treasury Board, therefore, instead of reducing the increase in their total expenditures from 20 per cent to 11 per cent, the provincial governments actually increased it from 20.7 per cent to 26 per cent.

There is obvious confusion here between reducing an increase and decreasing, with respect to which I will not go into very great detail. However, it is important to point out that the latest available figures appear to support my statement completely. Senator Carter asked where I obtained the figures. I obtained them, of course, from an examination of the total figures in the federal budget and the provincial budgets and reached the conclusion that it was 11 per cent.

Since then, in the June issue of the *Business Review* of the Bank of Montreal, a fairly reliable source, we find these figures. As we all know, what is taken out of a computer depends on what is put into it, but in this series

of figures the federal government increase for 1976-77 is 13.4 per cent. I know what has been taken out, but will not go into that in great detail. On a comparative basis, the provincial governments increased their expenditures from last year to this year, on the basis of budget spending intentions as against the 13.4 per cent federal increase, as follows: British Columbia, 5.4 per cent; Alberta, 7.7 per cent; Saskatchewan, 11.1 per cent; Manitoba is not given; Ontario, 11.7 per cent; Quebec, 12.8 per cent; New Brunswick, 9.6 per cent; Nova Scotia, 10.9 per cent; Prince Edward Island, 13 per cent; Newfoundland, 11 per cent; and, again, federal government expenditures, 13.4 per cent. I suggest to honourable senators that this completely supports my statement that in the current year the increase in federal government expenditures is greater than that of the provinces. The figures I have quoted will come very close to supporting my statement that it was 11 per cent. I say that again—although I may be harping on this theme—because we need more frankness, more realism and less excuses in the statements we are given when asked to pass legislation such as this, which is, of course, an appropriation act to provide spending authority to the departments and agencies of the government for the remainder of the year.

There was a time, I seem to recall, when the government came rather more often during the year to Parliament requesting grants for interim supply. It is becoming the habit now to do so perhaps twice a year. I suggest that the time has come, having in mind the problems of the sitting times of Parliament, to revert to the policy or practice of the government asking for interim supply at regular intervals, at least four times a year rather than twice a year. If we pass this bill now it will have the effect of giving carte blanche to the departments to spend another $13 billion. They are asking for full supply for the year. I suggest that in this particular area there is a very important role for the Senate, and I hope, and firmly believe from discussions I have had with the chairman and deputy chairman of that committee, that the Senate will in the future contribute more to this type of realistic presentation of the estimates and spending intentions of the government than we have in the past.

Hon. Léopold Langlois: Honourable senators—

The Hon. the Speaker: I must inform the Senate that if the Honourable Senator Langlois speaks now his speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Langlois: Honourable senators, Senator Grosart in his remarks cast some doubt on the result of the avowed intention of the President of the Treasury Board to endeavour to reduce the total expenditures of the federal government to the percentage increase of the GNP. I remember when this was discussed—

● (1240)

Senator Grosart: I am sure the Deputy Leader of the Government would not want to misinterpret me, or I hope I have not given the wrong impression. I did not intend to cast doubt on the intention of the President of the Treasury Board to reach that figure. I have said on other occasions that I have the greatest admiration for him, and I think the best thing that could happen to Canada at the present moment is for the President of the Treasury Board to continue in office and to continue the efforts he has been making, for which on several occasions I have complimented him.

Senator Langlois: My reference was to the interpretation I placed on what the honourable senator said to the effect that he was casting doubt on the possibility of realizing the efforts which the President of the Treasury Board is making at this time to try to bring the increase in total expenditures in line with the percentage increase in the GNP.

When the bill was discussed in committee, the honourable senator went so far as to congratulate the President of the Treasury Board on his efforts and his frankness—

Senator Grosart: Yes.

Senator Langlois: —in endeavouring to achieve that goal. That is the only comment I wished to make in that respect, and I am sorry if in some way I misinterpreted the honourable senator's remarks.

Referring again to the percentage of increase in federal expenditures as compared to provincial expenditures, I assume that when my honourable friend gave his percentage increase of the federal expenditures he included the transfer payments.

With regard to his comments on transfer payments, I take it from what he has said this morning that he is very much in favour of the proposal advanced at the last meeting of the Prime Minister and the Premiers, that the federal intention is to permit provinces to opt out of cost-sharing programs and to replace the present federal contribution to such programs by giving provinces more taxing leeway. That is the avowed policy of the federal government, and I take it my honourable friend is in agreement with it. It would appear that we are heading in the right direction.

I do not think I need add very much to what I have already said. As I pointed out in my opening statement, the bill was fully discussed in committee with the minister and his officials, who answered all questions put to them.

I therefore commend the bill to the consideration of the house.

Motion agreed to and bill read second time.

THIRD READING

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

Senator Langlois: With leave now.

Senator Flynn: Leave is granted. Would the Deputy Leader of the Government tell us whether any government cheques have been returned with an NSF annotation recently? I suppose the government wants the bill passed by tomorrow night.

Senator Langlois: I should warn the Leader of the Opposition that it might happen in a few days' time, as tomorrow is the last day of the month.

Senator Flynn: I was thinking of that.

The Hon. the Speaker: It is moved by the Honourable Senator Langlois, seconded by the Honourable Senator

Perrault, that this bill be now read a third time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

The Senate adjourned during pleasure.

At 2.30 p.m. the sitting was resumed.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

June 29, 1976

Madam,

I have the honour to inform you that the Honourable Wishart F. Spence, O.B.E., Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber to-day, the 29th day of June, at 5.45 p.m., for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière,
Administrative Secretary to the
Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

CITIZENSHIP BILL

THIRD READING—MOTION IN AMENDMENT—DEBATE CONTINUED

The Senate resumed from earlier this day the debate on the motion in amendment of Senator Laird to the motion of Senator Connolly (Ottawa West) for the third reading of Bill C-20, respecting citizenship.

Senator Laird: Honourable senators, over the noon hour I had an opportunity of discussing the implications of the different mechanical means suggested by the Leader of the Opposition for accomplishing the same purpose, and I have come to the conclusion that I would prefer my motion in amendment to stand, and I am prepared for a vote on it now.

Senator Grosart: A hard decision.

Senator Argue: You are safe.

Senator Denis: You expected that, I suppose.

Senator Flynn: Honourable senators, with your permission, I should like to make a few remarks, following which I will withdraw my sub-amendment.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Flynn: Honourable senators, I merely wish to repeat what I said earlier, that if the Senate prefers the amendment moved by Senator Laird rather than my sub-amendment then I have no objection. I merely want to take this opportunity to point out that Senator Connolly's speech rather convinced me that we should adopt the amendment moved by Senator Laird.

The main argument put forward by Senator Connolly with respect to the delegation of power to the lieutenant governors in council was that it was of an administrative nature. It is quite obvious that that is wrong. It is quite clear from clause 33(2) that the lieutenant governors in council would be authorized "to prohibit and annul or in any manner restrict the taking or acquisition directly or indirectly of, or the succession to, any interest in real property located in the province." It is quite obvious that this is legislative authority. But I cannot imagine the lieutenant governor of any province acting on the basis of such authority. It is inconceivable.

It is quite clear from the argument advanced by Senator Connolly that the present section 24, which this would replace, deals with Parliament's power to legislate in respect of aliens. If it is felt necessary that aliens be prohibited from acquiring property, Senator Laird's amendment covers the point.

As the speeches in this debate indicate, in accepting clause 33 we are entering into a very complicated situation from the point of view of constitutionality, as well as from the point of view of the practical consequences. Therefore, I think the amendment presented by Senator Laird should be adopted by the Senate. It would only take the other place a few minutes to concur in it. For that reason, I urge honourable senators to vote in favour of Senator Laird's motion in amendment and, with the permission of the Senate, I would withdraw my sub-amendment.

MOTION IN AMENDMENT NEGATIVED

The Hon. the Speaker: It is moved by the Honourable Senator Connolly (Ottawa West), seconded by the Honourable Senator Macnaughton, that this bill be now read the third time.

In amendment, it is moved by the Honourable Senator Laird, seconded by the Honourable Senator McNamara, that the bill be not now read the third time, but that it be amended as follows:

Page 17:—

Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And more than two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

● (1440)

Motion in amendment of Senator Laird negatived on the following division:

YEAS

HONOURABLE SENATORS

Asselin	Hicks
Beaubien	Laird
Bélisle	Lang
Benidickson	Macdonald
Choquette	McNamara
Flynn	Neiman
Forsey	Phillips
Fournier (Madawaska-Restigouche)	Quart
Grosart	Riley
Haig	Smith (Colchester)
Hayden	Walker
	Yuzyk—23.

NAYS

HONOURABLE SENATORS

Barrow	Godfrey
Basha	Graham
Bourget	Lafond
Buckwold	Lamontagne
Carter	Langlois
Connolly (Ottawa West)	Lefrançois
Cook	McElman
Cottreau	McGrand
Croll	McIlraith
Davey	Michaud
Denis	Norrie
Deschatelets	Paterson
Eudes	Perrault
Fournier (Restigouche-Gloucester)	Petten
Fournier (de Lanaudière)	Smith (Queens-Shelburne)—30.

The Hon. the Speaker: I declare the motion in amendment lost.

Honourable senators, is it your pleasure to adopt the main motion?

Hon. David A. Croll: Honourable senators, I will direct what I have to say to the citizenship aspect of the bill. You will understand if I begin by first addressing Senator Williams, and then the rest of you as fellow immigrants. He is an original and the rest of us are sons and daughters or descendants of immigrants.

Senator Flynn: They probably arrived here some time ago.

● (1450)

Senator Croll: Some came by an earlier boat, some came by a later boat and some came overland, so the importance of the citizenship bill can be appreciated.

[The Hon. the Speaker.]

Senator Connolly, who spoke to the bill, covered it historically, with feeling, compassion and understanding, and treated it as an important one. Senator Yuzyk, who speaks acceptably on matters concerning Canadians of other ethnic origins, made his usual valuable contribution. Senator Forsey touched a new base, for him, and dealt with legal matters and made a contribution to the debate.

Senator Flynn: That is nothing new.

Senator Croll: I felt that something more needed to be said, because citizenship is always important to the recipient of the honour as well as to the country that bestows it. I am sure that all of you consider the bill important, and to me it is a rededication.

In other times I spoke of citizenship. As a member of the House of Commons I spoke to the original bill in 1946. I spoke to the amendment in 1951. In 1946 and in 1951 no member of the Senate was of "ethnic origin", as the expression is. There are now five, four of whom were born in Canada. I am the only one who was not born in Canada; I became a naturalized citizen. Two of our members were born in Ireland and one in Great Britain; and the rest of you are the chosen people.

I thought the occasion was significant enough for one who believed in, and participated in, the great Canadian dream to speak concerning its meaning. To those of us not born in this country, who hoped to acquire Canadian citizenship, it was to touch the rim of heaven and so participate in the great Canadian dream. It is open to others, as it was opened to me.

Sir Wilfrid Laurier spoke of this. Whenever I think of the essence of Canadianism, I think of that grand story which is told concerning the life of Sir Wilfrid Laurier. You remember reading about Sir Wilfrid Laurier's attending the Diamond Jubilee of Queen Victoria in 1897. He was engaged in conversation with one of Britain's elder statesmen—this was when Canada was beginning to embark on its immigration policies—and the man said to Sir Wilfrid, "In Canada you already have the French and English, and now you are about to bring in Germans, Italians and Russians. With all these different people, what will the nationality of Canada be?" Sir Wilfrid replied, "The nationality of Canada will be freedom."

I looked back to see what I had to say on this in 1946 and 1951, and I am now going to repeat some of the things I said then. It is 30 years later; I will bring you up to date. These are some of the things I said 30 years ago, and they struck me as being of interest to the house, to show the progress we have made. When speaking to the bill in 1946, this is what I said:

> With all due deference, I would mention one group of citizens in this country to whom the question of citizenship . . . is of the deepest concern, who are fascinated by this bill, and whose hearts, from sheer joy, miss a beat at its implications. They are those who are not charter members of this Canadian organization, like my French-speaking friends; they are not those of Anglo-Saxon stock, like so many others of my friends; they are not those whose birthright gave them every freedom and privilege this country of ours can offer. No, sir; when I mention some of those to whom the question of citizenship is so important, I mean those

who had to save and struggle and endure hardship to achieve the status which is so casually accepted by our brethren. I mean the new Canadians—and in saying that, I mean 20 per cent of the population of Canada. I mean also that one-fifth of our population which can hold its head as high as any other when anyone raises the question of loyalty to Canada.

I am one of them. For forty-one years of my forty-six I have lived in this country, have enjoyed liberties and opportunities it has given me, I have gladly allowed myself to become assimilated into its community. What little service it has allowed me to give, I have proudly given. Yet I remain a new Canadian. I am not a native-born; I am a naturalized citizen. Behind me remains, and occasionally I hear, the reminder of those cold years when, from the wrong side of the tracks, this new Canadian could only look across enviously at the warmly-lighted windows of those who enjoyed Canadian birthright and who so casually accepted the high privileges which were theirs from the cradle on.

That, if I may say so, has been the shocking thing so far as most of us are concerned. We have come, in the main, from lands of oppression, hunger and fear; we, or our fathers, have struggled mightily to assemble the little bit which was needed for that which we sought—the opportunity to be accepted on our abilities, not on the basis of the class or group to which birth has assigned us; freedom of education and opportunity for ourselves and our children; a land and a democracy which would engage our hearts and loyalty as never could those downtrodden acres we were leaving.

We have not come, in the main, from some dark European morass where learning and culture never flowered. It was not ignorance that led us to reject our homes and our friends and the countries of our birth—and out of all lands to which we might have gone, to choose Canada. We, or our fathers, were actuated by those same impulses which, one or two or three centuries earlier, had led the forebears of honourable members, whether they speak English or French, to make this same venturesome, sometimes desperate, move from an old world to a new, to escape from drudgery without hope of security, hunger born of social injustice, religious faith without the freedom to practise it, democratic idealism ruthlessly suppressed by the despot.

And we did not imagine that we were exchanging this for streets of gold and untold wealth when we asked admission to Canada. We knew only that here was a land where a man could call his soul his own, and with hard work could see that his sons and daughters had a better start in life than he, and, with a bit of extra luck, could approach old age in dignity and security. So we made our choice, and gambled our lives and those of our families—and by and large we won. Not without pain were the deep-grown roots of generations wrenched from the familiar soil; but mercifully soon, we found, new roots were taking hold in new, far more nourishing clay than ever we had known. We settled fairly easily, at least the younger of us did, into the new scene as gradually the old one faded. We became, in our own thinking, Canadians in all but citizenship, and we were eager for the day when that final proof of right and liberty would be added.

● (1500)

Canada was giving us a new life—what had we to give Canada? We brought to her our brawn and our skill; new Canadians helped till the unbroken soil and build the factories and dig the ditches. They sought to contribute to the new land the best of the national cultures they brought from the old. Was that enough? No; for there remained loyalty. Those of you who know the new Canadian will know that he has been inclined to attach to his Canadianism, to his loyalty to his adoptive country, that same fanaticism which the proselyte shows toward his adoptive faith. To him the title of citizen is something to be proudly worn, a recognition of his own love for this new country of his, an earnest of his determination to serve it—to serve it and to die for it if need be. There is no one of us who has returned from this latest war who does not carry with him the remembrance of the young men with non-Anglo-Saxon, non-Gallic names who lie beneath the temporary markers in the shallow, roadside graves of a half-dozen fronts.

Too often we have heard the assurance given to Americans, "No, you must not mistake us for the British," and the caution delivered to the British, "You must not confuse us with Americans." We have not shouted proudly from the housetops the proclamation that we are Canadians, a nation as distinctive as any that ever came down the pike of history, an up-and-coming nation, with the unique ability to get along with our neighbours and to pick a fight with none. A proud nation which when its own freedom and that of its friends became imperilled threw into the fight every man and woman it had available and still had enough left over to become the third greatest producing country in the world.

We have not realized our own greatness. We travel in the strange, conflicting shadow cast by our mother and by our neighbour, and somehow we still refuse to come out into the warm sun of the world's acclaim.

I suggest also that we call our people Canadians and forget that destructive hyphen we are so wont to use. Surely after all these years we are no longer English or Irish or French or German or Hebrew or Ukrainian Canadians? Surely the people of these national backgrounds need no longer huddle protectively among others of the same descent, keeping alive their immigrant ways and customs only because they have not been accepted into the larger community which apparently is not yet ready to avow its Canadianism.

Surely the time has come for us all to eradicate that sense of domestic isolation? Surely the time has come for us to eradicate the hyphen? It should be known that citizenship is not only a challenge, that it is an achievement; that not only is it a responsibility, it is a privilege. It should be known that no man can be a citizen of a country without first being a citizen of a community, that no man can be a citizen of the world without first being a citizen of a country. How can we hope to understand the problems of other people and take an intelligent attitude toward them unless we

first develop techniques and the willingness to understand one another here in Canada?

It is time we awakened to the greatness of our country and called a holiday on hatreds, both racial and religious, which are attacks on the hopes of a free people, and attach a real and important value to the very fact of Canadian citizenship as created, recreated and endorsed in this bill.

This Twentieth Parliament I feel will not only give life to a Canadian citizen but present him with a flag and set aside a day to celebrate the occasion. I hope he has much to celebrate.

Honourable senators, you will realize that obviously parts of this statement are a bit out of date. Today we are dealing with the Thirtieth Parliament, not the Twentieth. The flag is here; it was not here then, and there was no day to celebrate it.

Let us take a look for a few minutes at the situation as I see it now. I was saying that I spoke to the Twentieth Parliament and that we are now in the Thirtieth Parliament, 30 years later. That is quite a long time. The population has changed. At that time the ethnic people comprised 20 per cent of the population; they now comprise 33 per cent of the population. Canada's fertility rate has dropped dramatically below replacement levels, as it is put these days. By 1974 it had dropped from 2.13 children per family to 1.87. It dropped again in 1975 to 1.83. Apparently the only area open to us for a change is immigration. And yet we are talking of the time when we will provide for immigrants to enter the country as we have labour openings. In the meantime we will devote ourselves to indentured labour for our special needs. Surely the time has come for us to consider what indentured labour has meant to Europe before we go into that sort of policy.

In 1946 I said I had been here 41 years. I can say today that I have been here 71 years. I sometimes wonder whether I have paid my dues and have qualified just to be a Canadian—not "old," not "new" and not hyphenated.

I took occasion to speak on this when I indicated to you that in 1946-51 there was no Senate representation of the ethnic groups. There is considerable importance attached to Senate representation, and yet at this very time there are large, important minority groups of ethnic origin which are not represented in the Senate. How can we reconcile that with the fact that the Senate was established for the purpose of giving minority groups and minority provinces a voice simply because they were minorities? Surely in this day and age, this day of communications and political participation, such numerical inadequacy amounts to neglect and cries out for correction.

● (1510)

I referred a few minutes ago to the great Canadian dream. What am I talking about, really, when I say that? Let me say to begin with that the doors we had to push open 30 years ago now have a welcome mat in front of them, and we are invited to enter some places, although in some of the board rooms of this country it is still done somewhat hesitatingly. In other offices ability and competence count, but even yet, now and then, racism and discrimination rear their ugly heads. On this point, let me mention that there was a full-page advertisement in the Toronto *Globe and Mail* just lately which said: "Our Government: Racist and Arrogant." The least one can say about this is that it was grossly intemperate and misleading, but the terrible thing about it is that here were nameless, faceless bigots, with money in their pockets and hate in their hearts, preaching hate. I, of course, am a past master when it comes to dealing with racism and discrimination. I have been on the receiving end of it for a long time. I can tell you that though these begots claim that their voice, as they put it, is the voice of Canada, it most certainly is not. The most that can be said for these people is that their voice is the voice of hate. It is my view, based on long experience of and long association with this sort of problem, that they are fundamentally mistaken in what they are attempting to do, because an adverse reaction will come very quickly. That is the Canadian way.

Returning to the question of immigrants, we must remember that immigrants brought to this country not only talent, money, culture and creative capacity, but they contributed to every aspect of Canadian life, whether social, economic, political, professional, educational, or those of values and ideas. They have striven constantly not only to join in the spirit of optimism and sense of high adventure which have marked this country from its inception, which it possesses still in such abundance, but in the possibilities and potentials of which it needs now and then to be re-awakened.

We hear much talk of bilingualism. I have never understood the opposition to this. At six years of age I was trilingual, and that situation continued for quite a while. Eventually one language I lost because I was learning English and forgot it; but all of my life I have had two languages. They were not the official languages as we designate them at present, but I do know the advantages of being bilingual, and I do understand how much we need this, and how important and vital it is in a country such as ours.

Where are we now, 30 years later? Certainly as Canadians, more than ever, in the factories and the shops, in the small businesses and on farms we are working and striving to be better, to get along better, to live better and to perpetuate family life in its full meaning. But there is more to it than that. We are to be found, as Canadians, in the Parliament of Canada, in the provincial legislatures, in municipal councils, and in goodly numbers wherever in Canada men and women are elected or appointed to office. Throughout the country we are to be found in the ermine robes of judges and advocates; as teachers in the hallowed halls of learning and culture, as students in large numbers, in the professions, in the arts and in the sciences. We have stood in Caesar's place as representatives of Her Majesty in provincial jurisdictions.

It is true that immigration, for many of us, was the great escape, yet many immigrants passed through hard times before obtaining their citizenship, and the movement still goes on. People still move about in search of work, or a better life, or a dream of relative freedom, and such people do not belong to any one time or any one place: they are still with us.

There is one thing that I want to say very clearly, if I am allowed to give any evidence at all, and that is that we must recognize that never in history has one country

bestowed so many riches on its minorities. We have thrived in a land of opportunity which cherishes freedom.

You will recall the story I told about Sir Wilfrid Laurier, when he was asked what the nationality of Canada would be. He replied, and I do not hesitate to repeat it, "The nationality of Canada will be freedom." I am not sure we can yet say that that ideal has been attained completely, but I like to think that it is recognized as a Canadian goal, a goal which will one day soon be realized by a nation reflecting no dislike of the unlike, and which is tolerant of everything except intolerance itself. We need some of that kind of understanding in this country at the present time, for there are still victims of racism and discrimination.

Senator Flynn: You can say that again.

Senator Croll: Such victims, however, are not always ethnics.

We may still have a long way to go, but we have come a long way already, and the purpose of my standing here is not so much to urge you to vote for the bill, as I think you probably will, but because I thought it was time that somebody gave an accounting and an indication to Canadians of the extent to which we who were blessed enough to have the opportunity to come to this country are thankful for that opportunity. I simply wished to express this thankfulness on behalf of all of us at the present time.

On motion of Senator Flynn, debate adjourned.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Hayden for the adoption of the Report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-58, to amend the Income Tax Act.

Hon. Eric Cook: Honourable senators, I have nothing new to add to the excellent speech made last night by Senator Hayden. However, I wish to make a few comments to underline two fundamental issues which emerged during the hearings of the committee.

● (1520)

First, the evidence discloses that unfortunately the Minister of National Revenue, with the approval of the Cabinet, made an error inasmuch as he misinterpreted the provisions of the Income Tax Act.

Second, the evidence discloses that the Minister of National Revenue refused a taxpayer in good standing the right to ask for the protection of the court from government actions, which the taxpayer considered unfair or unjust. The background to the minister's interpretation of the Income Tax Act begins, of course, with the act itself, which provides for its administration by the Minister of National Revenue. However, should any dispute arise as to any of the provisions of the act, it is the courts, with the Supreme Court of Canada having the last word, which have the duty and responsibility to rule upon the wording used and to decide what Parliament intended the law to be. When a court interprets any act, that interpretation is the law of the land until overrruled by a higher court, or by an amending act approved by Parliament.

Bill C-58 leaves untouched subparagraph (F) of section 19 of the Income Tax Act, which reads in part as follows:

> (F) the contents of which excluding advertisements, are substantially the same as the contents of an issue . . . printed, edited or published outside Canada.

Therefore, in order for Bill C-58 to have any application to the magazine problem as it heretofore existed, it is of vital importance to have subparagraph (F) interpreted. In order that the Senate may have the facts relating to the interpretation of subparagraph (F), reference must be had to the hearings before Senate Banking, Trade and Committee, Committee on May 26 issue No. 88.

The facts given in evidence may be summarized briefly as follows: On May 6 and 7, 1975 *Time* Canada had meetings with the highest levels of the Department of National Revenue. During those meetings the departmental officials produced a memo which stated in part:

> The requirement is that at least half the contents be new, fresh, original material which has not appeared in any periodical outside Canada.

On May 8, 1975, the next day, the Secretary of State, when introducing Bill C-58 in the House of Commons, stated in part:

> . . . there is no intention of introducing, in connection with the proposed amendments, a new forumla for measuring how substantially a magazine published in Canada must be different from another published abroad.

Then, on October 23, 1975, by means of a press release the interpretation of "substantially the same" was set at more than 80 per cent. The press release reads:

> The government's policy requires that more than 80 per cent of the contents of a Canadian periodical must be material which has not appeared in any current or prior issues of foreign publications with which the Canadian periodical may have had any type of continuing arrangement for access to material.

Therefore, on October 23, 1975, the Minister of National Revenue contradicts what the Secretary of State said on May 8, 1975; furthermore, in effect, he says that government policy is contrary to and overrides the plain, clear meaning of the words used by Parliament and set out in subparagraph (F).

Honourable senators, the established law on the correct interpretation of the language used by Parliament in subparagraph (F) was referred to in the hearings of the committee, and I will quote in part from Issue No. 88, page 7.

> SENATOR COOK: I would like, Mr. Chairman, to refer to an Exchequer Court case, entitled, *Manning Timber Product Limited v. Minister of National Revenue*, which was decided in 1951. The judge concluded his judgment with these words:
>
> > I have given appellant's powerful argument my best consideration but I am simply unable to see that there is any context here which would enable me to construe "substantial" as "majority". I am fortified in this view by the following passage from the speech of Viscount Simon in *Palser v. Grinling* . . . If the judgment of the Court of Appeal in Palser's case

were to be understood as fixing percentages as legal measure, that would be going beyond the powers of the judiciary. To say that everything over 20 per cent of the whole rent should be regarded as a substantial portion of that rent would be to play the part of a legislator. If Parliament thinks fit to amend the statute by fixing percentages, Parliament will do so. Aristotle long ago pointed out that the degree of precision that is attainable depends on the subject matter. There is no reason for this court to differ from the conclusion reached in these two cases that the portion was not substantial, but this conclusion is justified by the view taken on the facts, not by laying down percentages of general application.

And then I asked the following question:

Mr. Minister, does Parliament, by Bill C-58, amend the Income Tax Act by fixing any percentages for subparagraph (F)?

HON. MR. FAULKNER: No.

Therefore, clause 1 of Bill C-58 cannot change the law relating to *Time* magazine until subparagraph (F) has been given a proper judicial interpretation after hearing arguments from all likely to be affected, including, of course, the Minister of National Revenue, or until subparagraph (F) has been amended by Parliament itself.

Let the Senate make no mistake. Every taxpayer, small or big, personal or corporate, has a very real stake in this unfortunate and regrettable situation. They will look to the Senate to insist that the words of the Income Tax Act as used by Parliament be given the meaning and effect given to them by the courts after a full and fair hearing, and not the meaning and effect given to them by a member of the Cabinet who at one and the same time refuses the taxpayer the protection of the court.

The second serious defect surrounding Bill C-58 is the denial of a taxpayer of his right to have the protection of the court in his dispute with the minister. Because of the operation of the Income Tax Act, *Time* Canada could not refer the interpretation of subparagraph (F) to the courts without the consent of the Minister of National Revenue. As I have already stated, the Minister of National Revenue refused to give his consent. Not only did the minister refuse to give his consent to refer the dispute to a court, but subsequently, as already pointed out, he in defiance of all jurisprudence made a ruling which is not supported by the plain words used in the Income Tax Act.

● (1530)

A few days ago I heard Senator Hayden refer to the fact that when he first entered this chamber he and a group of eight Liberal senators helped to amend a government bill, which as drafted denied the right of appeal to the courts. It is becoming more and more common for legislation to be drafted upon the instruction of the bureaucracy denying persons the right to appeal to the court from the findings of ministers, boards and the like. This tendency has been resisted time after time by the Senate. Putting obstacles in the path of citizens who believe they have been wronged and who wish to have the protection of the courts is a sure and certain way to kill democracy in this and any other country.

[Senator Cook.]

When the government of a former Prime Minister, the Right Honourable Louis S. St. Laurent, provided for the creation of the Income Tax Appeal Board, that government created a splendid instrument to hold the balance between the ordinary taxpayer on the one hand and the tax collector backed by all the resources and all the might of the government on the other hand. Not only has the Income Tax Appeal Board throughout the years meted out even-handed justice and given judgment in favour of the taxpayer in, I would say, about one-third of the cases, but also the mere fact that the board exists and has not hesitated to hold against the department when proper so to do has, I am sure, helped the Department of National Revenue to become the usually fair-minded reasonable department that it is today. Indeed, if the officials of the department—not the minister but the officials—had the last word, *Time* would have received justice. But the officials did not have the last word; it was the minister who had the last word. The minister made the absurd 80 per cent ruling, and he refused to consent to refer the matter to the court.

For my part, I deplore this conduct as not being in the best interest of democracy and justice in Canada, and I hope that the Senate will show that it deplores it also. Surely, to paraphrase a truism, it is far better that there be 99 applications to court without merit than that there be one citizen denied justice. This must surely be the first time that both Parliament and the courts have been brushed aside in order to carry out what is described as government policy.

Honourable senators, there is no place in the Canadian system of law for any government policy—no matter how meritorious it may be—unless it is authorized fairly, clearly and squarely by the language used in an act passed by Parliament. Furthermore, if the application to any citizen of any act of Parliament is challenged by a citizen, there is no justification under our Canadian system for refusing any citizen the right to seek the protection of the courts.

Honourable senators, I support the amendments.

Some Hon. Senators: Hear, hear.

Hon. Keith Davey: Honourable senators, I am afraid that I must once more ask for your patience so as to discuss Bill C-58.

Senator Flynn: Why?

Senator Davey: Although I was not a member of the Standing Senate Committee on Banking, Trade and Commerce, I believe I attended virtually all its hearings on this bill. I wish to begin my remarks by thanking the chairman and the members of the committee for their courtesy, cooperation and, I suppose most of all, their patience.

I regret very much that I cannot agree with the report of the committee. Indeed, after listening to practically every witness and reading the evidence of those I did not hear I have arrived at exactly the opposite conclusion to that of the committee and its chairman, Senator Hayden. Today I wish to urge you to reject this report and these amendments which, in my opinion, taken collectively, strike right at the heart of the bill. We are dealing here with much more than four simple amendments. Rather, it is a series of proposals which would effectively squeeze the life out of this bill. I concede at once that I have neither Senator

Hayden's eloquence, lucidity or, certainly, experience. I am not even a lawyer—

Senator Flynn: That is good; "not even."

Senator Grosart: That is the best thing you have said.

Senator Davey: However, I do have some modest working knowledge of media. I recognize amendments, although not specifically so designed, which will nonetheless obstruct, delay and frustrate this legislation. I recognize amendments introduced in the closing hours of this session in the almost certain knowledge that the government could not deal with those amendments during the present session. Let me assure you that time is running out. That is not a pun, because I do not think it is any longer a laughing matter. Time is running out.

Senator Grosart: *Time* has run out.

Senator Davey: Time is running out on literally hundreds of Canadians who need this legislation in order to survive financially.

In a few moments I will make some comments with respect to the amendments and Senator Cook's interesting speech. First of all I would like to remind you of what this bill is all about; then I would like to indicate just who it is who is in favour of this bill. I would like to discuss with you the opposition to the bill and where it is coming from. Then, as I say, I will turn in conclusion to a discussion of the amendments.

Allow me, then, briefly to restate the objectives of Bill C-58. The bill is attempting to foster an economic climate which will allow the full development of a native Canadian consumer magazine industry and one which will assist Canadian broadcasters to meet their obligations under the Broadcasting Act. Now, this I confess is a difficult speech for me to make. It is a difficult debate, because I am aware of the Senate's understandable respect for the Standing Senate Committee on Banking, Trade and Commerce. Yet I would not be honest with myself if I did not observe that I have heard in its report and hearings precious little from the members of the committee with respect to what can be done to assist Canadian magazines and broadcasters, although I heard a hell of a lot about the rights and privileges of giant American broadcasters and publishing companies. Now, the nub of the issue is advertising. As it relates to magazines, the simple fact is that Canadian editions of American magazines have an unbeatable head start in the battle for advertising revenue. Editorial material attracts circulation, which in turn attracts advertising. The Canadian editions of American magazines get most of their editorial content, if not all of it, free of charge. As far as broadcasting is concerned, an estimated $20 million of advertising revenue per year, which is growing at the rate of 15 per cent per year, is spent by Canadian advertisers on American television and radio stations. Thus these American stations derive this revenue from a market they were not licensed to serve, at the expense of Canadian stations playing under altogether different and more stringent ground rules. As I repeat, it is a matter of intense regret to me that during the debate and in the hearings we heard really very little about what we were going to do to assist Canadian broadcasters and Canadian magazine publishers. However, we heard a great deal about the rights of American publishing giants and American broadcasting giants.

I would like to tell you who it is who wants this bill. Who are the people who urge us to pass this legislation? In a nutshell, they are the very people whom this bill is designed to help. The people who want us to pass this bill without amendment are Canadians who make their daily bread in the media business in this country—giant corporations like Maclean-Hunter, and marginal publishing operations like *Saturday Night*; the powerful Canadian Association of Broadcasters, to be sure, but also such fledgling television broadcasting entities as the Global Television Network and CITY Television. Those people trooped before the committee with their hearts on their sleeves, with, in many cases, the seat out of their pants, but nonetheless their feet planted optimistically on the ground.

● (1540)

I consider it extremely important, honourable senators, that the full Senate should hear from those people, at least in part. Let us start with the Canadian Periodical Publishers Association. I do not know whether this booklet entitled *Magazines Canada* was sent only to members of the committee or to every honourable senator, but it is a list of magazines presently published in Canada. If honourable senators look through it—and if any senator does not have a copy, I will ensure that he or she receives one—they will be astounded at all the titles mentioned, titles such as *Ellipse Event, Exile,* and *Tamarack Review.* It goes on and on. There are more than 100 publications. The association which these publications combine to form, the Canadian Periodical Publishers Association, appeared before the committee with an extremely impressive presentation and urged the members of the Senate to pass this legislation.

Let us talk about the giant Maclean-Hunter publication. Maclean-Hunter appeared on May 12. It would be impossible for me to quote all of the things that were said on that occasion, but I would like to quote from the presentation made by Donald Campbell, the President of Maclean-Hunter. He said in part:

> Maclean-Hunter has a strong tradition in this country of publishing magazines. And because we are a communications company it is a tradition that has gone beyond profit.

Now listen to this, honourable senators:

> You may be surprised to learn that Maclean-Hunter did not make a profit from consumer magazine publishing in either 1974 or in 1975. And it may also surprise you to learn that our profits through the years from publishing consumer magazines have been at best marginal. But our company has been built on a foundation of helping to build Canada, and we maintain that. We have published Maclean's since 1905,

In the same presentation, Mr. Campbell said:

> Bill C-58 as presented will be legislation which achieves precisely what it attempts to achieve—the preservation and growth of Canada's periodical press. The adoption of this legislation will encourage new Canadian magazines and provide a financial base so that they can serve the growing reading demands of Canadians.

Then, honourable senators, just this morning I received a letter, which I did not solicit, from Donald Campbell, the President and Chief Executive Officer of Maclean-Hunter. In this letter, which I would like to put on record, he said:

Dear Senator Davey,

While we received a fair and complete hearing before the Senate Committee on Banking—

I have not questioned that, and I would not question it. I think all witnesses received a fair hearing:

—its subsequent report has discounted our recommendations to such an extent that we feel the full implications of the suggested amendments should be made clear. If the 80 per cent "substantially different rule" is discarded, the future of Canada's periodical industry would be placed in jeopardy; the potential rebirth of magazines in this country would be halted in its tracks. Not only would it be a simple matter for foreign publishers to move into this market, but domestic publishers might well be forced to make deals with them in order to stay in business. *Newsweek*, *The Wall Street Journal* and dozens of other U.S. magazines and business periodicals, including a refurbished *Time*, would almost surely launch Canadian editions; *Maclean's*, *Chatelaine*, and other Canadian publications would be forced into importing large chunks of unoriginal content.

These are strong statements, but a royal commission, a Senate inquiry and evidence to both the recent Commons and Senate committees have validated their relevance and urgency in this complex set of circumstances.

The vote which the Canadian Senate takes on third reading of Bill C-58 will be a historic one; it will decide, once and for all, whether Canada should have an indigenous periodical press. It was Senator Grattan O'Leary who placed this in its proper context, when he wrote:

"Only a truly Canadian printing press, one with the 'feel' of Canada and directly responsible to Canada, can give us the critical analysis, the informed discourse and dialogue which are indispensable in a sovereign society."

Senator Benidickson: I would like to tell Senator Davey that I received an identical letter from Maclean-Hunter this afternoon, so I assume that all senators received one.

Senator Davey: Thank you, Senator Benidickson. In that case, I apologize for taking up the Senate's time.

Senator McIlraith: I would like the honourable senator to answer a question at this point.

Senator Davey: I would like to wait until—

Senator McIlraith: It is about the letter. Where in the committee's report does the honourable senator find anything that affects the 80 per cent rule that the government wishes to impose? The tenor of the committee's report is that you either interpret the section or you legislate on the point.

Senator Davey: I shall deal with the amendments in a moment or two. If you will allow me, I would like to proceed along the line I am presently taking. I will come to the amendments, but I wish to indicate to the Senate who are the people who want us to pass this bill. The fact is that the people the bill is designed to help are the very people who are urging us to pass it.

[Senator Davey.]

I have talked about the Canadian Periodical Publishers Association, and about Maclean-Hunter. Let me now talk about *Saturday Night*. *Saturday Night* is a marginal publication, and has been for some time. The President of *Saturday Night*, and Mr. Ed Cowan, appeared before the committee. I would ask honourable senators to listen to what he said. This is the guy who runs *Saturday Night*, and he said:

The second point then is simply this, the *Time* question is about cultural emasculation and about confusing issues. The fact that *Time* magazine can make a convincing case before the Parliament and people of Canada, to the effect that they are a Canadian magazine, bears terrible witness to the success they have enjoyed in subverting whatever sense this country has of itself. Andy Warhol silkscreening maple leaves, beavers or Margaret Trudeau, does not make him a Canadian painter, not even if he painted these canvases on a Canada Council arts grant. And there is another absurdity in this controversy. The Canadian government has subsidized, through special exemption, *Time-Life* in its quite legitimate vocation, that of money-spinning—and there is nothing wrong with that—and in its quite illegitimate one, that of passing off a sophisticated and encyclopaedic mirror of American life as a real image of a Canadian one.

We then went on and asked Cowan, "Do you need this bill, and do you need the bill now?" Here is how he answered:

I can tell you this, in very practical terms, I know of three advertising campaigns that I will get this fall. I know at least three more that have asked us for information, should the *Time* demise happen. I can tell you that those specific three accounts, should we get them, could make a difference in our first full year of operation of red to black. That is how close we are.

That, in a sense, honourable senators, is what this debate is all about—whether or not we are going to bail out Canadian publishers, like Ed Cowan of *Saturday Night*, or whether we are going to ride in at the last moment and bail out American magazines like *Time*.

Other interesting witnesses who appeared before the committee were those representing Global Television. Rather than quote from that particular hearing, the President of Global, Allan Slaight, wrote the chairman of the committee on June 21—again I assume that a number of senators received a copy of this letter. However, I would like to quote from it because it gives a clear and very concise statement of where Global Television is at. He said:

Global Television, and other independents springing up across Canada, are good for the Canadian broadcasting business and good for the Canadian economy. When we entered the scene at Global in April 1974, after it had declared bankruptcy, the company was losing $1,500,000 per month, and had a staff size in the range of 220. We reduced the staff to 120 persons. Today, it is at a level of 190, and still growing. We are on the verge of turning the corner, but we urgently require the implementation C-58 to repatriate Canadi-

an dollars from Buffalo to ensure our economic survival.

● (1550)

He goes on:

> Many of the dollars placed on Global in our present fiscal year were, we are positive, from the Canadian Advertising agencies who initially assumed that C-58 would be announced, if not law, by this time. They were concerned that they establish a significant franchise on Global. We are concerned that a great many of these dollars will slip through our fingers in our next fiscal year if delays and amendments to C-58 are announced.

That is the Global Television Network.

One of the most interesting presentations we received was from gallant—and I use the word, I think, honestly—gallant, little CITY-TV in Toronto. If there is a community television station in all of Canada, then CITY-TV is it.

I am going to speak in a moment or two—not a great length—about the advertising community who came before the committee, representatives of the advertising community, who said, "Look, one of the reasons you must not pass this legislation is that these small stations like Global and CITY do not have sufficient audiences to justify the placing of advertising on them." That was the argument we heard. It was made repeatedly. I asked Moses Znaimer, the President of CITY-TV the following question, and this can be found in the committee proceedings of June 9:

> Secondly, ICA—

That is, the Institute of Canadian Advertisers.

> —appeared before this committee. They are against this legislation. Allegedly the advertisers will not use your station. We have been told that repeatedly. I have a list of the 10 largest television advertisers in Canada. I would like to read the list and ask how many of those advertisers use your station: Procter and Gamble, General Foods, the Government of Canada, General Motors, Colgate-Palmolive, Warner-Lambert, Bristol-Myers, Kraft, Molson and Ford. They are the 10 largest television advertisers in Canada. How many of them use CITY-TV?

I think it is fair to say—I am sure the members of the committee will agree with me—we had been led to believe that none of them used CITY-TV. Well, Mr. Znaimer's answer was as follows:

> All of them except two. Currently neither Procter and Gamble—and, if I am not mistaken, Kraft—use CITY-TV. I do not want to put the black mark on this, because I want them very much to use CITY-TV, and I expect they will begin to use CITY-TV. Currently, for the first time in our history, we are in negotiation with Procter and Gamble for a very large 52-week contract. All of them use CITY-TV except two; and I put it to you that in the 1976-77 season we will have all of them.

At that point I said:

> The point is that advertisers come here and tell us that they will not use your station, and yet all of them, with the exception of Procter and Gamble and Kraft are using your station now.

And Mr. Znaimer replied:

> Yes, and they are negotiating to use more, and God bless them!

Mr. Znaimer went on in the presentation to say that the retention of that kind of advertising was dependent upon the passage by the Senate and by the Government of Canada of Bill C-58.

Honourable senators, there they are, the people the bill is designed to help, saying "Yes, it will help." They are saying it so loudly and clearly. They said it before the committee of the other place and they said it before the Standing Senate Committee on Banking, Trade and Commerce. Yet they still feel constrained to send members of this chamber a wire, which I think most of us have received—a wire which, I suggest, is unique in its unity, and because of that uniqueness I propose to read it into our record. It is signed by Pierre Camu, President of the Canadian Association of Broadcasters, Graeme Gibson, Chairman of the Book and Periodical Development Council, Andreas Schroeder, Chairman of the Writers' Union of Canada, Ed Cowan, President of *Saturday Night* magazine, and Denis Smith, President of the Canadian Periodical Publishers Association. The wire reads as follows:

> The undersigned request your support for Bill C-58 as passed by the House of Commons. We appeared before the standing Senate committee to detail the need for this legislation to support income tax amendment as appropriate means to achieve the bill's objectives and to outline positive results we foresee from passage of this bill on Canadian publishing and broadcasting industries. Acceptance by the Senate of any one of the proposed amendments would seriously undermine not only future benefits, but those already taking place. We therefore urge your support as positive and appropriate step in development of Canada's broadcasting and publishing industries.

I find it necessary to add, honourable senators, that I had absolutely nothing to do with this telegram. I did not suggest it be sent. I did not request it be sent. I did not know it was being sent.

Senator Flynn: Who did know?

Senator Davey: I do not know, Senator Flynn, but I suggest it was, undoubtedly, the idea of the people who are on the firing line, the people involved on a day-by-day basis in the Canadian mass media structure, who are saying to this Senate, "We need this legislation." That is their message. That kind of wire is unique in the kind of unity it represents.

There were some other people in favour of the bill, including all three of the ministers who appeared before the committee. We heard from Mr. Faulkner, Mr. Cullen and from Mrs. Sauvé. Indeed, Mr. Faulkner appeared before the committee twice and was questioned extensively.

Senator Flynn: He had to correct his first appearance.

Senator Davey: He did appear twice, Senator Flynn, and I thought he was far more effective the second time he came than the first.

Senator Flynn: I hope so.

Senator Davey: The point I want to make is that no one in this Senate, no member of the committee, can deny that

the questioning was extensive, and sometimes, I felt—and this is just my opinion—in a spirit that bordered on antagonism. Nonetheless, every question asked was, I felt, dealt with effectively by the minister. I urge honourable senators who are not members of the committee and who did not attend meetings of the committee to read the committee proceedings of the dates when Mr. Faulkner and the other two ministers, for that matter, appeared before the committee.

Our most compelling witness, by far—I should not say "our," because it would seem to imply that I am a member of the committee, which is not the case. I am sure Senator Hayden is relieved that I am not a member of the committee. The most compelling witness the committee heard—

Senator Smith (Colchester): I think you were using the pronoun "our" in another connotation.

Senator Davey: Well, I think, Senator Smith, even you might agree with me that one of the more compelling witnesses we heard was Harry Boyle, Chairman of the CRTC. Had I spoken on this matter later this day, which I thought would have been the case, I would have had sufficient time to find a quotation from the speech of Senator Hayden on second reading. I cannot put my hand on it, but he will be familiar with the commendation he had in that speech for the CRTC, a commendation which I commented on in closing the debate, and a commendation which I share. I think most honourable senators have an extremely high opinion of the CRTC, of its former chairman and, indeed, of its current chairman, Harry Boyle.

Following the hearings with the American border stations—and I will be talking about that in a moment or two—I was troubled by some of the things they said, so troubled that I made it my own business to contact Harry Boyle to ask him a series of questions about some of the things the American broadcasters had been saying. Mr. Boyle sent a letter to me, which was subsequently tabled and which found its way into the committee report. I want to quote from the last paragraph of Mr. Boyle's letter to me which, as I say, was placed in evidence before the committee. I remind honourable senators again that Mr. Boyle is the Chairman of the CRTC, the man who, perhaps, is more responsible than any other Canadian for broadcasting policy in this country. He said:

> I should note for your information that in 1971 the Commission recommended to the Government that the provisions of the Income Tax Act should be amended in order to offset the heavy financial involvement of U.S. border stations in the Canadian broadcasting system.

The letter is dated June 9, and goes on:

> The Commission continues to support the broadcasting aspects of Bill C-58—the legislative proposal that is presently before the Senate Committee, and considers the legislation vital for the continued development of the Canadian broadcasting system.

In the course of his presentation to the committee, Mr. Boyle said:

> Mr. Chairman, the point here is that you are charged with a mandate—

He was speaking of himself.

[Senator Davey.]

> —the federal broadcasting mandate, to administer broadcasting; and within the parameters of that you are told what you should do. There should be a strong, healthy Canadian broadcasting system. The frustration of it is that you cannot administer it because someone outside takes over and has prerogatives which you cannot overcome in your own sovereign country.

The people supporting the bill and the people urging us to pass the bill without amendment are the people involved day-by-day in the media business in this country, the government, the ministers responsible, and Mr. Boyle, the Chairman of the CRTC.

● (1600)

I should now like to take a moment or two to discuss who it is that opposes the bill, because the bill has received a great deal of opposition; certainly it did during the course of the hearings. For openers, there are all those American companies who, with their oh-so professional, highly skilled lobbyists, have a vested interest in the status quo. There are, for example, the American border television stations, who are understandably unhappy at the prospect of losing such a lucrative set-up. The exchange with the Buffalo stations was most revealing, and I should like to quote from the committee report. I was questioning the representatives from the Buffalo stations on June 9 as follows:

> SENATOR DAVEY: . . . I would like to read a quotation from the Broadcasting Act. It says:
>
> > The Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada.
>
> I may say that the Broadcasting Act passed the House of Commons, and passed the Senate unanimously; so we are on record as endorsing, as one of the purposes of the Broadcasting Act: "to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada."
>
> I would like to ask each of you how your station enriches or strengthens the cultural, political, social and economic fabric of Canada.
>
> MR. BEUTH: In answer to that, senator—and I include in my answer another reference to the Broadcasting Act, which says that the right of all persons to receive programs should not be denied. I think those two are at issue with each other, because on the one hand it says that the importation of U.S. signals on Canada is not restricted—and therein, I think, lies the problem with which we are faced: those two sections of the Broadcasting Act are at odds with each other. I do not see any of that language as reason to take our product and deny us an opportunity to be compensated for it.
>
> SENATOR DAVEY: When Bill C-58 passes, will you be forced out of business?
>
> MR. BEUTH: I speak only for myself and not for the other stations. No, I would not.
>
> SENATOR DAVEY: Would either of the other stations be forced out of business?

MR. BEALL: No, we would not be forced out of business.

MR. ARRIES: No.

There was another exchange in that hearing with the Buffalo stations. I asked them if they would tell me the total amount of their advertising sales in Canada since their inception here. There was a good deal of discussion back and forth about what that meant. I suggested it would be $100 million. I still regard that as a conservative estimate. The Buffalo stations said they thought it was not that high. Perhaps, indeed, it was not. Mr. Beall said he would be delighted to supply the committee with the figures. I don't believe, Senator Hayden, the Buffalo stations have supplied those figures. If they have, I have not seen them. I asked:

> In that time period during which you have taken this money out of Canada, which I think would be over $100 million, how much money have you paid in taxes in Canada?

Well, of course you know what the answer was. No money has been paid in taxes in Canada. I asked how much money had been reinvested in Canada. You know the answer to that. No money had been reinvested in Canada.

Then, honourable senators, we came to the hearing at which *Time* Canada appeared. At the time of the hearing, of course, *Time* had packed up, bag and baggage, and gone home to New York, but was willing to return to appear before the Standing Senate Committee on Banking, Trade and Commerce, no doubt hoping, hoping against hope, for some kind of deathbed reprieve, or at least some kind of delaying action by the committee. It was an empty performance in that everything *Time* Canada said before the committee they had said countless times before in other places and on other occasions.

Meanwhile, *Time* Canada, which is now published in New York—I said this in opening the debate, I said it in closing the debate on second reading, and I find it necessary to say it again here—freely circulates in Canada. Its advertising rates are cut in half in a clear attempt to defy the spirit of the legislation. Subscriptions to *Time* for Canadians are now $30 a year, even although *Newsweek*, which carries no Canadian advertising, can be obtained on an annual basis for $19.50. Remember all those lost jobs we used to hear about, that if *Time* left Canada the printing would be done elsewhere, that there would be all kinds of jobs lost? The fact, of course, is that *Time* continues to print in Canada.

I had a brief exchange with Mr. LaRue on the question of where *Time* is printed. I will not now read that. I appreciate your time and patience. The fact is that *Time* is still printed in Canada because that is the only way legally *Time* can sell advertising in Canada. A magazine printed outside Canada cannot, under existing legislation, carry more than 5 per cent of its advertising directed to the Canadian market, so let no one be under the impression that *Time* is doing us a great favour by printing in Canada. *Time* is printing in Canada—and Mr. LaRue conceded this to me at the hearing—because it must if it is to continue to sell advertising in Canada.

Other opponents of the bill include, expectedly, the Association of Canadian Advertisers and the Institute of Canadian Advertising. Those are multinational advertising trade associations. As I have stated before in the debate, but let me again put it on record now, these organizations opposed the Canadian content requirements for television and radio, and those requirements were introduced five or six years ago. The ACA and ICA opposed those particular requirements; they opposed them in practically the same words that they used in opposing this particular legislation.

Honourable senators, perhaps some of my friends in this debate, perhaps some of the people who will support me in opposing these amendments, will suggest that I should not raise the intervention by the American ambassador, but I should like to touch upon it very briefly. The United States ambassador, as you certainly read, made what I regard as a very curious intervention into the business of the Senate. I described it as a regrettable intrusion and had my knuckles rapped by members of the committee. I still think it was a regrettable intrusion, and one which, in the form it took, as far as I have been able to determine,—and I have been trying to find out—is absolutely unprecedented in the history of this chamber. I agree completely with an editorial which appeared in the Montreal *Gazette* on Friday, June 11, and which I should like to quote in part. I agree entirely with the thrust of this editorial, which said:

> In principle, one can agree that a national government can be expected to make representations on behalf of its citizens abroad, if it finds their case to be valid, and that Parliament should have the opportunity of considering these views. The problem in the present case is that the U.S. representations come so late in the day, appearing to be an attempt to undo the work of government and Commons by an attack through the soft under-belly of the Senate.
>
> The governmental structure in Canada is different from that of the United States. While this country could get itself into a lot of trouble by making representations to Congress that would embarrass the executive, the President is nevertheless not subject to votes of no-confidence. There is a separation of powers. In Canada, with the government responsible to Parliament, representations by the U.S. to Parliament that run contrary to government policy are a touchier matter.

● (1610)

As I say, perhaps most honourable senators do not share that particular concern of mine, but it was an honest concern. I apologize if I embarrassed honourable senators by pressing that concern in my terms of English. I think you would expect me to say what I believe. I still think that intrusion was unnecessary.

I have talked about the people who have urged us to pass this bill, the men and women who work every day in the media. I have indicated who the people are who want us to delay this bill through amendment or any other technique, for that matter, notably those who have a vested interest in what was a very healthy status quo.

I should now like to say a word or two about the position of the committee itself. I was pleased last night when Senator Hayden assured us that he supports what the bill is trying to accomplish. That was reassuring to me because such support from honourable senators has not been easily

apparent in this debate. In the debate on second reading, ten members of the Standing Senate Committee on Banking, Trade and Commerce spoke; all but one, my leader, Senator Perrault, opposed the bill.

As sponsor of the bill I found it difficult, in attending the committee, to conclude other than that the cards were stacked against me. Nothing in the ensuing weeks has disabused me of that notion. I assure the house that I do not relish a confrontation of any kind with any senator, least of all the august chairman of the Standing Senate Committee on Banking, Trade and Commerce. My concern is in no sense personal. This is, I think for all of us, a matter of principle.

I agree with what Geoffry Stevens wrote in the *Globe and Mail* the other day, as follows:

> A prudent bettor would think twice before wagering against Senator Hayden. The Banking Committee is the Senate's blue-ribbon committee. Its recommendations tend to be regarded as Holy Writ by the Senate as a whole. Senator Hayden, 80, who is the dean of the Senate, is probably the most influential single member of the Upper House.

As I say, I agree with that. Maybe I even agree with the next sentence:

> He carries more clout than Senator Ray Perrault, the government leader.

Well, I do not know about that, but I certainly agree with the other.

I must say that I was a little less impressed with Stevens column on the preceding day. Stevens, of course, is writing in a newspaper which, as I have explained at other times in this chamber, and I will not go into it today, has a vested interest in *Time* remaining in Canada because the same company which owns the *Globe and Mail* owns the company which prints *Time* Canada. In any event, Stevens, who is himself, of course, a former writer, a former employee of *Time* magazine, the day before he wrote his accolade for Senator Hayden, said as follows:

> Bless the senators' pointed little heads.

I will not make any comment on that. He then went on to say:

> I am not, and never have been, a great fan of the Senate of Canada. (When you get right down to it, the Senate Fan Club is one of the more exclusive associations, restricted as it is to senators themselves, members of their immediate families and those prominent supporters of the party in power who avidly read the Ottawa death notices while waiting and dreaming of the golden day when they, too, may be summoned to a seat in the august Red Chamber.)

That is an opinion which I do not share. Geoffrey Stevens has written at other times that the Senate should not be simply a rubber stamp for the other place, and certainly that is an opinion I share, for I do not believe that the Senate should be a rubber stamp for what happens in the other place. By the same token I do not believe that the Senate should be a rubber stamp for whatever is reported by the Standing Senate Committee on Banking, Trade and Commerce, no matter how much all of us respect that committee's work and, indeed, its chairman.

[Senator Davey.]

I now turn to conclude with a brief discussion of the amendments which have been offered by the committee. First of all, as to retroactivity, as Senator Hayden has pointed out there are many precedents for retroactive legislation. He said he favoured retroactive legislation when it favours the taxpayer. Surely, there are a great many Canadian taxpayers who stand to benefit, albeit indirectly. In addition, surely concerned senators and others concerned must have known, as reasonable people, that this legislation was coming. The bill was placed on the Order Paper in the other place almost a year and a half ago and it has been actively discussed on Parliament Hill by all parties for more than five years. Indeed, I want to say to my Conservative friends that a working paper which the Conservative Party had prior to the 1972 election espoused this particular proposal. I want to say to my Liberal friends that in the last three national policy conventions of the Liberal Party of Canada this proposal was accepted by the delegates. Two conventions ago it was accepted by 82 per cent of the delegates. This was the big convention attended by about 3,000 Liberals from coast to coast. At the last convention it was passed unanimously by the convention delegates.

Senator Riley: Dealing with the 80 per cent content?

Senator Davey: Eighty-two per cent, Senator Riley, of the people attending the convention supported the principle of a special privilege.

Senator Riley: Not the 80 per cent content; that is an expression of the minister.

Senator Davey: I will deal with that in a moment or two.

I have more difficulty, and I know honourable senators have a great deal of difficulty, with the exemption for *MD of Canada*, the exemption suggested in one of Senator Hayden's amendments. I concede at once that in a sense *MD of Canada* is an innocuous publication, but it is an innocuous publication which could quite easily order its affairs to stay in Canada.

Honourable senators, exceptions got us into this bind in the first place and this requested exception would eventually halt those Canadians who have the will to mount this exact kind of a publication.

Then there is the concern about the implementation for broadcasting. I shared concern about the date of implementation when I introduced the bill on second reading. I said then that I felt the date of implementation of the broadcasting section of the act should have been upon royal assent. The government felt that that particular proclamation should await the finding of better time availabilities, particularly in the Vancouver market. As I am sure all honourable senators know, a new television station is going on the air—is it in September or October, Senator Perrault?

Senator Perrault: September 1.

Senator Davey: This new television station will go on the air in Vancouver on September 1 with, of course, the appropriate availabilities. I would imagine that if the Senate passes the bill without amendment, proclamation would be sometime this summer now that that station is ready to go on the air.

Certainly, the most vexing issue—it is the one which concerns my friend Senator Riley and which was certainly the thrust of Senator Cook's speech and about which I submit there is some misunderstanding—is the decision not to go to court under section 173 of the Income Tax Act. That was not done because *Time*, as publisher, would not qualify as a taxpayer. The minister did not agree to *Time* Canada's request for two specific reasons. First, it would be inappropriate because *Time* Canada's taxes were not affected. So, it was the department's feeling that those whose taxes were directly affected should be involved in litigation.

The second reason was that Bill C-58 was still before Parliament and it was inappropriate for the minister to refer a question to the courts before enactment of the bill. *Time* Canada then proposed to have an advertiser go to court with the Department of National Revenue under section 173. The minister again was unable to agree for two specific reasons. Bill C-58 was still before Parliament and it was inappropriate for the minister to refer a question to the court that assumed enactment of the bill. Secondly, to get an interpretation of "not substantially the same" it is required that a magazine be capable of being defined as such by the court. *Time* Canada's then existing issues were clearly not suitable; consequently, a mock-up would be needed to enable the court to provide a positive and useful interpretation. Section 173 provides for determination of a question of fact or law. A mock-up or a hypothetical magazine would be inappropriate for reference to the court.

● (1620)

The Senate amendment indicates that this reasoning has been misunderstood, that the decision not to go to court under section 173 was based on the fact that *Time*, as the publisher in this case, is not the taxpayer and therefore does not qualify as one of the parties under section 173.

In any event, the minister has publicly stated that should his department be taken to court under the normal appeal procedure by an aggrieved advertiser, and should the court's decision be unfavourable, the government will proceed with necessary measures to legislate the definition of "substantially the same." The 80 per cent interpretation is government policy. There are, in fact, precedents for passing legislation which changes legislation to reflect government policy. Such legislation would not, of course, be retroactive and the advertiser would enjoy short-term benefits from the court decision. However, any long-term benefits would be nullified by government legislation.

The question then arises: "Why does the government not proceed forthwith to enact legislation to define 'substantially the same'?" At the time of the discussion of Bill C-58 in the House of Commons, this was not possible as it required a new notice and a ways and means motion. However, honourable senators, I understand that the minister will give an undertaking that he is prepared to support with Cabinet approval the ways and means motion in the fall to put the interpretation of "substantially the same" into legislation. No doubt my leader will have more to say about this in the course of the debate.

It only remains for me to thank you for your attention and to urge your support for this bill without amendment. As I said at the outset, and as I repeat in concluding my remarks, a great many Canadians involved day by day in the business of producing media are watching and waiting hopefully.

Hon. Norman McL. Paterson: Honourable senators, having listened to Senator Davey I merely wish to point out that every single thing he has said proves conclusively that the publishers are coming on their bellies begging the government to put their competitors out of business. Why can't people fight and compete and win out, instead of asking the government to pull their chestnuts out of the fire for them?

On motion of Senator Lang, debate adjourned.

The Senate adjourned during pleasure.

At 5.45 p.m. the sitting was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Wishart F. Spence, O.B.E., Puisne Judge of the Supreme Court of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the following bill:

> An Act to implement conventions for the avoidance of double taxation with respect to income tax between Canada and France, Canada and Belgium and Canada and Israel.

The Honourable James Jerome, Speaker of the House of Commons, then addressed the Honourable the Deputy of His Excellency the Governor General as follows:

> May it please Your Honour:
>
> The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.
>
> In the name of the Commons, I present to Your Honour the following bills:
>
> > An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.
> >
> > An Act for granting to Her Majesty certain sums of money for the public service for the financial year ending the 31st March, 1977.
>
> To which bills I humbly request Your Honour's assent.

The Honourable the Deputy of His Excellency the Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

The Honourable the Deputy of His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, I move that the Senate do now adjourn.

Senator Grosart: I would like to ask the Deputy Leader of the Government what the program is for tomorrow.

Senator Langlois: This is the normal adjournment. We will resume tomorrow at 2 o'clock, and carry on with consideration of Bill C-58 and Bill C-88. At 8.45 this evening the Commons will vote on the Medical Care bill, and if that comes to us in time we will be dealing with it tomorrow as well.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 2278*)

CONFLICT OF INTEREST

REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Tuesday, June 29, 1976.

The Standing Senate Committee on Legal and Constitutional Affairs, to which was referred the Green Paper entitled "Members of Parliament and Conflict of Interest," tabled in the Senate on April 9, 1975, has, in obedience to the order of reference of April 10, 1975, examined the same and now reports as follows:

Your committee endorses the principles and objectives set forth in the Green Paper.

With respect to some of the specific proposals and related clauses of the "Discussion Draft of Independence of Parliament Act," your committee finds that they require amendment for purposes of clarification and effective application and, therefore, recommends as follows:

PROHIBITED FEES

(Green Paper, Proposal 3)

Your committee considers that the provision relating to prohibited fees set out in Proposal 3 and recommended for incorporation in the Rules of the Senate should more properly be part of a code of conduct for Senators, discussed later in this report, rather than a rule of the Senate since it specifies a practice that Senators should observe in their conduct inside and outside the Senate rather than a rule of procedure in the Senate.

In addition, your committee considers that this provision, as set out in the Green Paper, should be more specific in its wording if it is to serve as a precise and effective rule of conduct designed to eliminate conflict of interest situations. Accordingly, your committee recommends that this provision, as a rule for Senators, be amended to read as follows:

"(1) A Senator shall not

(a) advocate, support or promote any matter, thing, cause or course of action in the Senate or among Senators or Members of the House of Commons, or

(b) intercede with public servants or government bodies in respect of any matter, thing, cause or course of action,

if,

(c) in return for so advocating, supporting, promoting or interceding, the Senator is paid or accepts a sum of money, fee or other reward, or

(d) the Senator acts as an adviser or consultant to, or is employed in any other capacity by, any individual, firm or corporation that has a direct pecuniary interest in such matter, thing, cause or course of action or is a director, officer or manager of the corporation.

(2) A Senator shall not represent any individual, firm or corporation before a federal board, commission or other tribunal in a matter in which a right or interest of that individual, firm or corporation is subject to a decision or order of an administrative nature if,

(a) in return for so representing that individual or corporation, the Senator is paid or accepts a sum of money, fee or other reward, or

(b) the Senator acts as an adviser or consultant to, or is employed in any other capacity by, that individual, firm or corporation or is a director, officer or manager of the corporation."

INCOMPATIBLE OFFICES

(Green Paper, Proposal 5)

1. Prohibited Federal Offices

(Draft Act, subclause 10(d))

Your committee is of the opinion that the prohibition against Members or Senators holding federal offices should be a prohibition relating to the remuneration for such offices. The *Senate and House of Commons Act*, paragraph 10(a), prohibits a Member of the House of Commons from holding any office, commission or employment with the federal government to which remuneration of any kind is attached. No such prohibition is now applicable to Senators.

Your committee, therefore, recommends that subclause 10(d) of the discussion draft, which is part of a list of prohibited offices, be reworded as follows to include the underlined words:

"(d) any office, commission or employment whereby the occupant or holder thereof is appointed by or under the authority of the Governor in Council, the Treasury Board, any Minister or other officer of the Crown or any department, agency or corporation set out in any of the schedules to the *Financial Administration Act*, under any enactment or otherwise to which any salary, fee, wage, allowance, emolument, or profit of any kind is attached;"

Your committee further recommends that, if this recommendation to include the underlined words is adopted, a provision be added to clause 10 to ensure that where a Member or Senator occupies a federal office, commission or employment to which no remuneration is attached, the Member or Senator is not precluded from receiving an allowance for expenses reasonably incurred in the discharge of the duties of that office, commission or employment.

2. Prohibited Provincial Offices

(Draft Act, subclause 10(f))

Your committee is of the opinion that not every office, commission or employment under the authority of a provincial government, if occupied by a Member or Senator, would violate the concept of the division of powers between the federal and provincial jurisdictions. Your committee, therefore, considers that a Member or Senator should be permitted to accept a provincial office, commission or employment if it is of a temporary nature or is an office, commission or employment to which no remuneration is attached and if it does not in any way involve the federal government.

Your committee also suggests that the word "commission" be added to the first line of subclause 10(f) of the discussion draft so that this clause will be consistent with subclause 10(d).

Your committee, therefore, recommends that clause 10 be redrafted in part as follows:

"10. (1) No Member or Senator shall hold any of the following offices, commissions or employments:

. . .

(f) any office, commission or employment under the authority or control of a province of Canada or under the jurisdiction or control of any foreign government.

(2) Subsection (1) does not prohibit a Member or Senator from holding an office, commission or employment referred to in paragraph (f) if

(a) it is of a temporary nature or it is an office, commission or employment to which no remuneration is attached, and

(b) the duties or functions of the office, commission or employment do not in any way relate to matters that involve the federal government."

3. Elected Public Office

Your committee concurs with the recommendation of the House of Commons Standing Committee on Privileges and Elections that there be a specific prohibition against Senators and Members of the House of Commons holding elected public office under the authority or control of a provincial or municipal government.

Your committee also agrees with that committee's further recommendation that a Senator or Member of the House of Commons be required to resign all other elected public offices within a period of six months from the date of his appointment or election, as the case may be, in order to continue to be eligible to retain his or her seat in Parliament.

GOVERNMENT CONTRACTS

(Green Paper, Proposal 9)

1. Prohibited Contracts

(Draft Act, clauses 2 and 3)

Clause 3 of the discussion draft provides that "no Member or Senator shall participate, directly or indirectly, in any government contract". Clause 2 defines the word "participate" as meaning, among other things, "having a beneficial interest in the contract... being a shareholder, an officer, a director... of a corporation that is a party to the contract or... being the spouse of a person who is a party... to the contract".

Your committee considers that, since each meaning of the word "participate" in clause 2 is modified in clause 3 by the word "indirectly", the use of that word in clause 3 gives the clause a meaning that, when applied to certain situations, is too wide and imprecise. Your committee believes, for example, that there is no reason to distinguish between a direct and an indirect beneficial interest in a government contract. The use of the word "indirectly" in clause 3 also produces an absurdity when read with other meanings of the verb "participate". For example, how could a person be "indirectly" an officer or a director of a corporation that is a party to a government contract or how could a person be "indirectly" the spouse of a party to the contract?

Your committee is also of the opinion that a Senator is not in a conflict of interest situation merely because he is a shareholder or a director of a corporation that is a party to a government contract or whose wholly-owned subsidiary is a party to the contract.

Your committee, on the other hand, considers that it should be provided in the proposed legislation that there is a conflict of interest situation if a Senator owns 5 per cent or more of the shares of a corporation that has a government contract or whose subsidiary, whether wholly-owned or not, is a party to the contract, if the Senator's spouse or dependent child is a party to or owns 5 per cent or more of such shares, or if the Senator and the Senator's spouse and dependent child have a combined holding of 5 per cent or more of such shares.

Your committee also considers that it should be provided that there is a conflict of interest situation if a Senator is an officer or manager of a corporation that is a party to the contract or whose subsidiary, whether wholly-owned or not, is a party to the contract.

Your committee also considers that there is a conflict of interest when a Senator who is a director of a company intercedes with public servants or government bodies on behalf of that company in any matter in which that corporation has a direct pecuniary interest, and it is for this reason that your committee has recommended, in respect of proposal 3, that Senators be specifically prohibited from so interceding.

Your committee, therefore, recommends that the words "directly or indirectly" be deleted from any general prohibition, such as the one set out in clause 3 of the discussion draft, that the substantive provisions set out in the definition "participate" be incorporated in clause 3 and that it be provided in clause 3, at least in so far as that clause applies to Senators, that a Senator contravenes the Act if, in relation to a government contract,

(a) the Senator is party to or has a beneficial interest in the contract,

(b) the Senator is an officer or manager of a corporation that is a party to the contract or whose subsidiary is a party to the contract,

(c) the Senator owns 5 per cent or more of the shares of a corporation that is a party to the contract or whose subsidiary is a party to the contract,

(d) the Senator's spouse or dependent child is a party to or owns 5 per cent or more of the shares referred to in paragraph (c), or

(e) the Senator and the Senator's spouse and dependent child have a combined holding of 5 per cent or more of such shares.

2. Permitted Participation

(Draft Act, subclause 4(2))

Subclause 4(2) of the draft Act permits a Member or Senator to participate in government contracts if the amounts paid or to be paid pursuant to the contracts do not exceed in the aggregate the sum of $1,000 in any fiscal year. Your committee agrees with the recommendation of the House of Commons Standing Committee on Privileges and Elections that this exemption of $1,000 be increased to $5,000.

Your committee, however, draws attention to the fact that, even with such an exemption, the prohibition in clause 3 of the draft Act could create problems in outlying areas where the only available supplier of essential goods or materials is a business in which a Member or Senator has a substantial interest.

3. Knowledge of Participation in Government Contracts

Your committee is aware that, because of the large number of contracts entered into annually by various government departments, corporations and agencies, it can sometimes be difficult for a Member or Senator to know whether or not a company in which he owns 5 per cent or more of the shares has entered into a government contract.

Your committee believes that this problem can best be met by the diligence of Members or Senators in keeping themselves informed of the activities of those companies in which they, their spouses or dependent children have combined or separate holdings of 5 per cent or more of the shares.

4. Broadcasting Licences

Your committee notes that the Green Paper does not deal with the question of whether or not a Member or Senator should participate in or derive any benefit from licences for television, radio and cable television issued by the Canadian Radio-Television Commission.

There would appear to be some inconsistency in prohibiting a Member or Senator from participating in government contracts and yet permitting such a Member or Senator to own or have a substantial interest in a broadcasting undertaking or to participate in an application for a licence issued by the CRTC which, in many cases, has an intrinsic value many times more than the suggested $5,000 exemption mentioned above with respect to government contracts.

Your committee notes that there is a provision in the *Broadcasting Act* for the Governor in Council to issue directions to the CRTC respecting the classes of applicants to whom broadcasting licences may not be issued. Your committee believes that consideration should be given to the question of whether or not Members or Senators should be included in such a class. Your committee further suggests that a review of the other legislation involving the granting of licences be considered for the purpose of determining whether a similar question arises.

FINANCIAL INTERESTS

(Green Paper, Proposal 15)

Your committee concurs with the recommendation of the House of Commons Committee that an office of Registrar be established. The Registrar for the Senate would receive the disclosures that Senators would be required to file under the Rules of the Senate and the proposed Act. He would also on request give advice, either verbally or in writing, provide Senators with information on matters of conflict of interest and issue a set of forms for the use of Senators. The committee further recommends that the Clerk of the Senate be appointed as the Registrar for the Senate.

Your committee recommends that every Senator be required, within six months of assuming office or within six months after the coming into force of any legislation relating to conflict of interest and on May 31st of each year thereafter, to file with the Registrar a list of the companies in which the Senator, or the Senator's spouse or dependent child, has a beneficial interest through the holding of shares or has an interest as a holder of bonds, debentures or other securities (excluding bonds, debentures and notes issued or guaranteed by the government of Canada, a province or any other public body in Canada) either in an individual capacity or through a private investment company, a partnership or a trust in which the Senator has an interest.

As recommended by the House of Commons Committee, such disclosure would be made to the Registrar on a confidential basis and would not be made public, except under the terms of a court order or on the request of a Senate committee investigating a specific allegation of conflict of interest.

Your committee agrees with the recommendation in Proposal 10 of the Green Paper, as set out in subclause 7(1)(b) of the discussion draft, that all Members and Senators be required to register annually with the Clerk of the House or the Clerk of the Senate, as the case may be, a list of those companies of which they are officers, directors or managers. Your committee recommends that there also be a requirement to disclose the number of shares held by Members or Senators in such companies. Your committee also agrees with the suggestion in the Green Paper that there be public access to this information.

Your committee has considered the suggestion that Senators be required to file copies of their annual income tax returns but does not feel that this would serve any useful purpose. In the report of the Joint Committee of the Australian Senate and House of Representatives on Pecuniary Interests of Members of Parliament (September, 1975), it was concluded that the filing of income tax returns "would constitute neither an adequate nor an appropriate form of registration of pecuniary interest". Among other reasons, the Australian Joint Committee felt that such disclosure would lower the confidence of the general public in the observance of the secrecy requirements of the income tax legislation.

Your committee, therefore, recommends that a Senator be required to produce a copy of his income tax return only if requested to do so by a Senate committee investigating a specific allegation of conflict of interest.

SANCTIONS AND ADMINISTRATION

(Green Paper, Proposals 18 and 21)

1. Public Recourse

(Draft Act, clause 16)

Your committee is of the opinion that the provision in the draft Act allowing public recourse where the Attorney-General of Canada has failed or refused to institute proceedings could lead to many frivolous applications and should be deleted. Since the Green Paper provides that the Act is to be enforced by the Attorney-General of Canada who is responsible to Parliament and since a member of the public may at any time approach a Member or Senator from his area or communicate with the chairman of the appropriate Committee on Privileges established pursuant to Proposal 21 if that person considers that there has been a violation of the law, your committee is of the opinion that this is sufficient to provide a proper balance between the need to preserve the integrity of Senators and the need to ensure that there is adherence to the provisions of the legislation relating to conflict of interest.

2. Committee on Privileges

Your committee is of the opinion that consideration be given to the establishment of an appropriate standing or special Senate committee, or a subcommittee of the Senate constituted as a committee of the whole on privileges, whose terms of reference in relation to matters of conflict of interest would, pursuant to the suggestion contained in Proposal 21 of the Green Paper, be

(a) to investigate all questions of conflict of interest referred to it by the Senate,

(b) to provide Senators on request with advisory opinions, and

(c) to advise the Senate, from time to time, of any changes that in its opinion are needed in conflict of interest legislation.

CODE OF CONDUCT

Certain proposals in the Green Paper contain recommendations for rules that would serve as basic guidelines to be observed by Members and Senators in avoiding conflict of interest situations. Such rules relate to the conduct of Senators outside the Senate and, as such, could not properly form part of the rules of procedure in the Senate. Proposal 3, which relates to prohibited fees and Proposal 17, which relates to the management of private investments and the use of confidential information, are two such recommendations.

Your committee recommends that consideration be given to the drafting of a code of conduct that would incorporate these and other recommendations of a like nature. Such a code could form an essential adjunct to the Rules of the Senate and could serve as a guide to any committee investigating a conflict of interest situation in which the principles embodied in the code are alleged to have been violated.

Respectfully submitted.

H. Carl Goldenberg,
Chairman.

THE SENATE

Wednesday, June 30, 1976

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

Prayers.

MEDICAL CARE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-68, to amend the Medical Care Act.

Bill read first time.

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

Senator Perrault, with leave of the Senate, moved that the bill be placed on the Orders of the Day for second reading later this day.

Motion agreed to.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Canada Labour Relations Board for the first 25 months of its operations ending March 31, 1975, pursuant to section 210(2) of the Canada Labour Code, Chapter 18, Statutes of Canada 1972.

Report of the Department of External Affairs for the year ended December 31, 1975, pursuant to section 6 of the Department of External Affairs Act, Chapter E-20, R.S.C., 1970.

Report entitled "Halifax Relief Commission 1918-1976," issued by the Minister of Finance.

Report of the President of the Medical Research Council, including accounts and financial statement certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 17 of the Medical Research Council Act, Chapter M-9, R.S.C., 1970.

Report of the National Farm Products Marketing Council, including a statement of expenses, for the fiscal year ended March 31, 1976, pursuant to section 16 of the Farm Products Marketing Agencies Act, Chapter 65, Statutes of Canada, 1970-71-72.

Report of the Standards Council of Canada for the fiscal year ended March 31, 1976, including its financial statements certified by the Auditor General, pursuant to section 20 of the Standards Council of Canada Act, Chapter 41 (1st Supplement), R.S.C., 1970.

Report of the President of the Federal Business Development Bank, including accounts and financial statements and the auditor's report thereon, for the fiscal year ended March 31, 1976, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter 10, R.S.C., 1970.

Report of agreements made under the Agricultural Products Cooperative Marketing Act for the fiscal year ended March 31, 1976, pursuant to section 7 of the said Act, Chapter A-6, R.S.C., 1970.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

NINTH REPORT OF STANDING JOINT COMMITTEE PRESENTED

Senator Forsey, Joint Chairman of the Standing Joint Committee of the Senate and House of Commons on Regulations and other Statutory Instruments, presented the ninth report of the committee as follows:

Wednesday, June 30, 1976.

The Standing Joint Committee on Regulations and other Statutory Instruments has the honour to present its ninth report as follows:

In accordance with its permanent reference, section 26, The Statutory Instruments Act, 1970-71-72, c. 38, your committee proposes to continue its review and scrutiny of statutory instruments during the adjournment of Parliament in the summer of 1976.

Your committee therefore recommends that for this purpose, and notwithstanding an order of the Senate of Tuesday, October 29, 1974, respecting the quorum of the committee, the joint chairmen be authorized to hold meetings during the forthcoming summer recess to receive and authorize the printing of evidence when three members of the committee are present, provided both houses are represented.

Respectfully submitted,

Eugene A. Forsey,
Joint Chairman.

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

Senator Forsey: With leave, honourable senators, I should like to propose that it be considered now. It is, I think, entirely non-controversial.

Senator Flynn: Well no, I think I would like to think it over during the weekend.

Senator Forsey: I yield at once to the Leader of the Opposition.

The Hon. the Speaker: It is moved by the Honourable Senator Forsey, seconded by the Honourable Senator Bonnell, that this report be placed on the Orders of the Day for consideration at the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

● (1410)

BUSINESS OF THE SENATE

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(g), I move that when the Senate adjourns today it do stand adjourned until Tuesday next, July 6, at 8 o'clock in the evening.

Honourable senators, before the question is put I should like to give a brief summary of the work for the coming week.

Next week we will continue with the debate on the report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-58, to amend the Income Tax Act; the second reading debate on Bill C-88, to amend the Canadian Wheat Board Act (No. 2); and Bill C-68, to amend the Medical Care Act, as well as other items on the Order Paper. At this time there are no meetings of Senate committees scheduled for next week.

Motion agreed to.

WEDNESDAY SITTINGS—HOUR OF ADJOURNMENT

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 47(2), I move that the Order of the Senate of May 6, 1976, that until the Senate adjourns for the summer recess the Senate shall adjourn at three-thirty o'clock in the afternoon on Wednesdays, be rescinded for this day only.

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

Hon. Senators: Agreed.

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

Motion agreed to.

AGRICULTURE

MOTION TO AUTHORIZE COMMITTEE TO PUBLISH AND DISTRIBUTE ITS REPORT ON KENT COUNTY, NEW BRUNSWICK

Senator Argue, Chairman of the Standing Senate Committee on Agriculture, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

> That the Standing Senate Committee on Agriculture be authorized to publish and distribute its report on Kent County, New Brunswick, as soon as it becomes available, even though the Senate may not then be sitting.

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

Senator Flynn: I was wondering whether Senator Argue does not intend to be here next week. If he does, there is no rush.

Senator Argue: I except to be here this coming week, but I thought we should have this done now. If the Leader of the Opposition wants to think about it over the weekend, he may do so.

Senator Flynn: I might as well add that to my list.

[The Hon. the Speaker.]

Senator Forsey: You will have a busy and arduous weekend.

Senator Flynn: Leave is not granted.

FOREIGN AFFAIRS

CANADA-UNITED STATES BOUNDARY—QUESTION

Senator Austin: Honourable senators, I should like to ask a question of the Leader of the Government in connection with the 200-mile limit and the extension of Canada's international boundary with the United States seaward. Has the government a policy with respect to the demarcation line on Dixon Entrance on the Strait of Juan de Fuca, George's Bank and northwards from the Alaska Yukon boundary?

If the government has such a policy, would the Leader of the Government outline it in the house and report on the current state of negotiations with the United States?

Senator Perrault: Honourable senators, because of the detailed nature of the question I must take it as notice. I do not have that information available at the present time.

THE HONOURABLE FREDERICK WILLIAM ROWE

FELICITATIONS ON PUBLICATION OF BOOK

Senator Perrault: Honourable senators, unless there are other questions. I should like to mention some additional appropriate literature which could be read over the holiday weekend.

It is gratifying to note the rare degree of dedication which the Honourable the Leader of the Opposition brings to his onerous responsibilities. I can think of few leaders in public life who on Canada Day would choose to read the report on Kent County, New Brunswick, despite its undoubted merits, and who would choose to read, as well, the report of the Standing Joint Committee of the Senate and House of Commons on Regulations and other Statutory Instruments, presented today by our distinguished colleague, Senator Forsey. The thought of the Leader of the Opposition sitting on his patio reading those two documents on Canada Day is edifying, to say the least.

Senator Flynn: It can also be done on the golf course.

Senator Bourget: He would not get leave from his wife.

Senator Langlois: Perhaps he can read them while sitting by his new swimming pool.

Senator Perrault: Or perhaps while waiting to tee off at the tenth hole.

An Hon. Senator: No, the nineteenth.

Senator Perrault: This brings me to a point I should like to make briefly. As honourable senators are aware, we have some authors in our midst. A number of senators have authored distinguished works, essays, books, and articles, quite apart from a copious production of speeches.

I have in my hand a book written by Senator Rowe entitled, *Education and Culture in Newfoundland.* I have had an opportunity in recent hours to leaf through it, and I recommend that this work, too, should be packed along with the honourable leader's golf equipment.

Senator Flynn: No, it should be read at night.

Senator Perrault: Yes, it is deserving of serious reading at night, and on any other occasion. This book seeks to tell the story of what has happened in that great province of Newfoundland, educationally and culturally, as a result of the decision, which all Canadians welcomed, of the Newfoundland people to become a part of the Canadian nation in 1949.

For this story to be meaningful to other Canadians, obviously our colleague felt it essential that the historical, racial, religious and economic factors that helped to shape the Newfoundland economy and culture prior to 1949 be fully understood. Accordingly, the book contains a great deal of background historical material.

This book will be of special interest to Canadian educators and those interested in specific cultural matters, but it is also designed to have general appeal. As Senator Rowe points out in the book, it is his opinion, shared by many other Canadians, that the unique developments which have occurred in Newfoundland, particularly those resulting from the impact of membership in the Canadian nation, are of interest to all Canadians.

This is the third major work by Senator Rowe dealing with cultural matters as they relate to his native province, and, as many senators know, he has been the author of numerous newspaper, magazine and encyclopedia articles dealing with almost every aspect of Newfoundland's life and culture.

Senator Macdonald: Honourable senators, before the Leader of the Government proceeds further, would he please tell us where we might obtain a copy of this work by Senator Rowe?

Senator Perrault: I am sure that Senator Rowe will be outside the door taking orders after today's sitting. I am not aware as to whether or not a senatorial discount applies.

Senator Phillips: I am sure the Honourable Senator Macdonald was looking for a complimentary copy.

Senator Perrault: Several years ago, my predecessor in office—

Senator Flynn: Who was that?

Senator Perrault: —the Honourable Paul Martin, had the privilege of bringing to the attention of his colleagues in the Senate a publication by Senator Yuzyk, another of the authors in our midst, whose work in interpreting the aspirations and special needs of certain minority groups in Canada has received widespread approbation. I am sure that all members of the Senate are similarly appreciative of the role that Senator Rowe is undertaking as part of his responsibilities, namely, that of interpreting his native province to the rest of Canada. He deserves the congratulations of all of us. I hope many copies of the book are sold and distributed, and I commend it to honourable senators.

Senator Greene: Could the government leader inform the Senate whether he has a piece of the action in Senator Rowe's book?

Senator Perrault: Unfortunately, no, but I have been given a complimentary copy.

Senator Walker: I can think of no one who is a greater authority on Newfoundland, and an honest authority, than Senator Rowe, who has done more than any other Liberal outside of Joey to develop that great province.

Senator Buckwold: I should like a complimentary copy.

Senator Walker: Try to get one.

CRIMINAL LAW AMENDMENT BILL (No. 2), 1976

DATE OF INTRODUCTION IN THE SENATE

Senator Asselin: Honourable senators, I would ask the Leader of the Government if it is true that the third reading of Bill C-84 in the other place has been postponed until the fall and that there is some possibility this bill will not be introduced in the Senate this session?

● (1420)

Senator Perrault: Honourable senators, I am unable to provide definitive information on that subject at the present time. The work scheduled in the other place has gone far beyond expectations and some basic decision may have to be made in the next few hours about the disposition of the remaining work. I will endeavour to have a report for this chamber as soon as I receive it myself.

CITIZENSHIP BILL

THIRD READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Connolly (Ottawa West) for third reading of Bill C-20, respecting citizenship.

Senator Flynn: Honourable senators, I adjourned the debate yesterday, not because I did not want Senator Croll's moving speech to be the last word on the record in this matter but, first, because I wanted to compliment him on his speech, even though there were some parts of it I thought I had heard before.

The second reason is that during the debate on the amendment moved by Senator Laird to clause 33, Senator Connolly said that the discussion would probably be more effective if the bill were referred back to committee. I think so too. I am not going to go over the proposed amendment again, but the opinions voiced during the discussion showed considerable doubt concerning this part of the bill. Yet, I'm afraid that yesterday's vote did not accurately reflect that concern. For example, if Senator McDonald had been here he would have added another voice to the dissenting opinion.

It might be a good thing for the bill to be referred back to the committee just to hear the minister on whether he would accept one of two things. The bill could be amended so that clause 33 would come into force only on proclamation, and that would permit further study of this matter to be undertaken. If that kind of amendment were made—and I think it would be approved without any difficulty in the other place in a matter of minutes—one of the things that could be done would be to refer the matter to the Supreme Court of Canada for a decision on its constitutionality, because some very practical problems are involved.

Secondly, perhaps we could obtain an undertaking from the minister that as soon as the bill passes he will arrange to put the question to the Supreme Court, so as to warn the provincial governments and the lieutenant governors in council not to use that authority before a decision has been made on its validity.

I think, therefore, to refer this bill back to committee would be the sensible thing to do. I do not insist but I think under the circumstances it would be a responsible decision to make, and I hope that Senator Connolly will change his mind and support the suggestion he made yesterday.

Senator Connolly (Ottawa West): Honourable senators, I made a suggestion yesterday and I do not think I want to change my mind about it. If there is real concern about clause 33, then perhaps the Leader of the Government would like to think about the suggestion Senator Flynn made. There was, of course, no reference in the committee to the possibility of referring the clause to the Supreme Court of Canada for a ruling. We did not consider that specific point when the Minister of Justice was present. The question of proclamation I believe is in the clause itself. I think it can be proclaimed separately.

It might be helpful to the Senate if I were to say a few words about clause 33, in addition to those of yesterday. I do feel, as I said yesterday, that this is a rather difficult forum in which to discuss detailed, complicated legal propositions such as we have here. I feel a little as if I should be addressing honourable senators as "my learned friends" or "mes savants confrères," when I have to talk on an issue of this kind.

The clause which is giving some honourable senators concern is clause 33, particularly subclause (2) and subclause (3). Perhaps it might be helpful if I put a few more remarks on the record, and, in a different way, about those subclauses.

I think it fair to start out by saying that only the federal authority has power to legislate in respect of aliens. That authority is to be found in section 91, head 25, of the British North America Act. To prohibit, annul or restrain the taking of real property in a province by a person who is not a Canadian citizen, the federal authority proposes by this clause to qualify a delegate or an agent. That is what subclause 33(2) says. It clothes that agent with the authority to act in respect of prohibiting, annulling or restraining the taking of an interest in real property by an alien.

Having granted the authority to take this kind of action, the form of action that is to be taken is to be in accordance with subclause 33(3). The effective method of doing these things is by the issue of regulations under the authority of this proposed federal act. These regulations are not issued in accordance with provincial legislation. They are federal regulations and they have the usual safeguards attached to federal regulations, such as scrutiny by the Office of the Clerk of the Privy Council and the Deputy Minister of Justice, and compliance with the regulations under the Statutory Instruments Act.

Some honourable senators asked why the lieutenant governor in council was chosen to be the agent. I am informed that the reasons for this are threefold. First, the lieutenant governor in council of the provinces has knowledge of local conditions, and particularly in respect to the ownership of land within the province by both non-residents and by aliens.

● (1430)

Secondly, in the provincial government, the lieutenant governor in council has control of certain facilities which deal with land tenure, particularly the land registration laws and the land registration offices.

Thirdly—and I think this is a cogent reason for us to take note of—if the agent, the delegate, were a federal person, a federal board or a federal agency of some kind, then in addition to lacking the first two requirements I have outlined, there would be involved the setting up another federal agency with more bureaucracy and the expenditure of a great deal of money.

Now, this kind of thing has been done before. I gave some examples yesterday, not all of which were particularly impressive to me, but which had been supplied by officials of the Department of Justice. By way of a further example I should like now to refer to the Agricultural Products Marketing Act, Chapter A-7 of the Revised Statutes of Canada, 1970, and to quote subsection 2(1) which reads as follows:

> The Governor in Council may by order grant authority to any board or agency authorized under the law of any province to exercise powers of regulation in relation to the marketing of any agricultural product locally within the province, to regulate the marketing of such agricultural product in interprovincial and export trade and for such purposes to exercise all or any powers like the powers exercisable by such board or agency in relation to the marketing of such agricultural product locally within the province.

That is a broad power of delegation given to any provincial board or agency to make a regulation under a federal act, and not only in respect of local matters but in respect of interprovincial and international matters.

In the present case the agent, the delegate, is a single unit, but one which is alive to the requirement of land tenure within the province, one which can be assumed to know what the feel of the people of the province is with respect of land tenure insofar as aliens are concerned.

I hope that with these few words I have been of some help to members of the chamber who are concerned about this clause.

Senator Forsey: I wonder if Senator Connolly would permit a question. I want to be quite sure that in the quotation he gave from the Agricultural Products Marketing Act certain words did occur. I understood him to say that that act contained words equivalent to "any board or commission, and so forth, authorized by provincial legislation." It seems to me that if those words are there, as I think they are if I caught what Senator Connolly said correctly, they might have a bearing on the subject.

Senator Connolly (Ottawa West): With respect, Senator Forsey, the point I was making was that under the bill before the Senate at this time it is proposed that the delegate be the lieutenant governor in council. That is one specific entity within the organization in the provinces which is selected. In the case of the Agricultural Products Marketing Board, I said the net was cast a great deal

wider. The agency appointed to make the regulations under that act is any agency within the province, whether it is appointed locally or not.

Senator Forsey: But under provincial legislation? The words "authorized under the law of any province" occur there. With respect, I suggest they might be material.

Senator Connolly (Ottawa West): Certainly under provincial legislation, yes.

Senator Greene: Will the honourable senator permit a question? I wonder whether clause 33 makes any difference to the Supreme Court decision of 1975 in *Morgan et al vs. Attorney-General for Prince Edward Island, et al* which held, if I read the learned Chief Justice's judgment correctly, that in the absence of federal legislation making it an incident of citizenship to hold land anywhere in Canada, then a province could prevent a citizen who was not a resident of that particular province from holding land there. Does it enhance Canadian citizenship in any way to make it a right of citizenship to hold land anywhere in Canada, or under the term "alien", to which the honourable senator has referred, can the provinces still treat a fellow Canadian citizen from another province as an alien and prevent him from holding land in that particular province by provincial legislation? Is anything changed by this?

Senator Connolly (Ottawa West): Honourable senators, yesterday I discussed the impact of the case of *Morgan et al vs. Attorney-General for Prince Edward Island et al.* That matter was decided originally by the Supreme Court of Prince Edward Island in *Banco,* and it then came before the Supreme Court of Canada. There were no dissenting judgments in either the Court of Appeal or the Supreme Court. The case simply confirmed the validity of the legislation passed by the legislature of Prince Edward Island, which denied the right to non-residents of Prince Edward Island to own land in any quantity larger than a parcel of ten acres, or more than five chains along the shoreline. The prohibition was a broad one. It affected not only foreigners who might come into Prince Edward Island, but also Canadians resident in other provinces. The courts found that any province was entitled to pass legislation of this kind because the pith and substance of that Prince Edward Island legislation was property and civil rights within the province.

This is a long answer, perhaps, to a short question, but what this proposal does, in effect, is to reduce the size of the net, and reduce the amount of the prohibition. No province could pass legislation prohibiting foreigners from owning property within the province, because the right to pass legislation with reference to foreigners or aliens is a prerogative of the federal government under section 91, head 25, of the British North America Act. What this legislation now does is establish, as the agent of the federal government, the lieutenant governor in council of a province, and it authorizes the lieutenant governor in council to regulate the holding of land in the province simply in respect of aliens. It is, I suppose, an invitation for Prince Edward Island to cut down the ambit of its legislation, and to restrict it to foreigners.

I hope that is helpful to Senator Greene.

Senator Grosart: I believe there is before the house a suggestion from the Leader of the Opposition that the Leader of the Government take into consideration certain proposals that the Leader of the Opposition was making. I am not sure that the Leader of the Government was listening at the time, but two proposals were made by my leader, who has unfortunately been called away on a very urgent matter. I would like to have an answer from the government leader to the suggestions of the Leader of the Opposition before we carry on the discussion.

● (1440)

Senator Perrault: Honourable senators, the idea proposed originally was to have the Minister of Justice testify before the committee on some of the technical aspects of this bill. I can only point out that this bill was before that committee for seven weeks, and at one point the minister was there. It has been extremely difficult for the minister to find time to testify in view of his onerous responsibilities in connection with important measures in the other place—capital punishment and law reform. I have been unable to secure any assurance at all that it will be possible to have the minister meet the committee again. He has, as I said, testified before the committee, and made himself available for the questions of any senator on these technical points. So I cannot give the chamber the assurance that we would be able to secure the testimony of the minister on a return appearance before the committee.

I regret very much that some honourable senators were unable to attend any of the committee meetings which extended over a seven-week period. It is unfortunate that personal scheduling difficulties apparently occurred, but honourable senators have had ample opportunity to direct questions to the minister. It was my hope that the information given us by Senator Connolly would serve to allay any fears, and answer any questions, honourable senators may have. On that basis I would urge that the question be put.

Senator Grosart: The Leader of the Opposition made another suggestion, and perhaps the Leader of the Government would care to comment on it. That is why I suggested earlier that the government leader may not have been listening at that particular moment. The Leader of the Opposition made the alternative suggestion that there might be an undertaking that these controversial subclauses (2) and (3) of clause 33 be not proclaimed until their constitutionality is determined. I believe that was the second suggestion made by the Leader of the Opposition. I suggest to the government leader that perhaps he would like to consider obtaining that undertaking.

The point is that in all this excellent debate that we have had on this bill—and I say it is an excellent debate because it is one of the best I have ever heard in this chamber, and certainly the references to the explanations given by Senator Connolly are well deserved—Senator Connolly did not come back to the point raised by the Leader of the Opposition which was the question of the constitutionality of this delegation of legislative or administrative power, whichever it may be. Senator Connolly, as I understood him, defended it on the ground that it was a transfer, and he gave some precedents, of administrative authority. I think it is clear that it is much more than administrative authority. It is very definitely the authority to make law in a field constitutionally occupied by the Dominion.

Honourable senators, this seemed to me to be an excellent alternative suggestion. I might say in passing that the use of precedents which we have often heard brought forward to justify legislative action does not impress me at all because I do not believe the concept of precedent applies in this field in any way. It is understandable that those who are learned in the law tend to rely on the principle of judicial precedent for entirely different reasons, but the fact that something has been done by a government or by Parliament on another occasion does not, to my mind, justify doing the same thing on a second occasion. They may have been wrong in the first place. But that was not the essential point raised by Senator Connolly, who said that there are precedents for this transfer of federal jurisdiction—and that is what it is—and power to the lieutenant governor in council of a province.

The matter that appears to be at issue, certainly in the mind of the Leader of the Opposition, as I understand it, is as to whether this is constitutional. What would be the effect if the lieutenant governor of a province, using this alleged new power, were to take certain action which was found later to be unconstitutional? The problems of ownership, registration and so on of property would be very complex. Therefore, I urge the Leader of the Government—and we are not in any great hurry; we shall be here next week—to take under consideration that suggestion, if the former one is not acceptable, and discuss it with the minister.

Senator Perrault: Honourable senators, I would make just a brief statement by way of outlining the chronology of events which led up to this proposal by the government. I do not intend making a long statement.

First of all, insofar as the second suggestion is concerned, I shall certainly undertake to bring this recommendation to the attention of the Minister of Justice so that he may give it serious consideration, and I give that commitment to the honourable senator. Beyond that, I cannot, of course, announce policy on the matter.

The precursor to this clause which has caused difficulty for some honourable senators provided that property of every description might be acquired by non-Canadians in the same manner as by Canadian citizens. In May 1973 a committee of federal and provincial officials—and I emphasize that these officials came from all of the provinces, and represented every political party in this country—was established to study legal problems, mainly constitutional problems, associated with the control of foreign ownership of land. This committee was established by first ministers—it included, I understand, a representative of the Province of Ontario—because foreign ownership of land was a matter of growing concern. The committee in its report—and this was the opinion concurred in by our counterparts who serve in provincial governments—identified what is now clause 33 of Bill C-20 as one mechanism for avoiding constitutional problems in controlling foreign ownership of land. The problem arises because Parliament, as honourable senators are aware, has legislative jurisdiction under section 91(25) of the British North America Act with respect to aliens, while the provinces have jurisdiction, under section 92(13) of the British North America Act, with respect to property and civil rights in the provinces. In other words, the federal government sought to obtain an absolute consensus among the provinces of Canada.

The Prime Minister subsequently wrote to all provincial premiers stating that the federal government was prepared to amend the Citizenship Act as set out in the committee report, with the addition of a qualification that the authority granted to provinces could not be used to undercut decisions made under the Foreign Investment Review Act. The correspondence between Alberta and the Prime Minister on this subject was tabled in the house on November 6, 1975.

Clause 33 as passed in the other place, and as it is before us, would allow the lieutenant Governor in council of a province to impose conditions, including complete prohibition, on non-Canadians owning land. At the same time it will not allow the provinces to use the authority delegated in ways that would conflict with other federal policy.

● (1450)

Thus, it will not allow provinces to use the authority to restrict ownership of land by landed immigrants; or in ways that would conflict with federal international obligations or policies; or so as to prevent acquisitions by non-Canadians which under the Foreign Investment Review Act have been judged to be of "significant benefit" to Canada.

Clause 33 will only come into force in a given province when declared to do so by proclamation of the Governor in Council. Therefore, those provinces which do not want to regulate foreign ownership of land and consequently do not wish to set up administrative machinery for that purpose will not be required to do so, since clause 33 need never be declared in force in that province. At the same time, those provinces that wish to impose controls will be able to do so.

The authority granted is only to control or prevent future acquisitions of land by non-Canadians. It does not authorize provinces to upset land holdings presently held by non-Canadians. Of course, when the present owners dispose of their land they may be required to dispose of it only to Canadian citizens.

A basic purpose of clause 33 is to enable provinces to control ownership of land by non-Canadians so that they will not restrict ownership by persons resident outside the province, thereby controlling foreign ownership. When provinces restrict the rights of persons resident outside the province, Canadian citizens resident in other provinces in Canada, as well as aliens, are prevented from owning land in that province.

This is the chronology of events. It has not been an arbitrary action on the part of the federal government but was done in close and full consultation with all provincial governments. It is intended to meet a problem which has been developing in many provinces, including the Atlantic and western provinces and central Canada, where much of the prime land is being purchased by those from other countries, denying access to Canadians to what it is felt by many to be their heritage.

Honourable senators, I will undertake to bring to the personal attention of the Minister of Justice the concerns which have been expressed by Senator Grosart. I cannot go beyond that at the present time.

Senator Grosart: Honourable senators, in view of the undertaking given by the Leader of the Government, I do not wish to pursue the matter much farther, except to say that we thank him for the chronology which he had given us before. It serves a useful purpose at this time. However, I would indicate to him that the point raised was not whether consent of the provinces had been secured. I, perhaps, should compliment the government on the rather unusual approach to federal-provincial relations in seeking the consent of the provinces to the extent it did in this case. I believe I can understand why, because all the federal government was doing was giving the provinces some part of the federal power, so there was no reason whatever why the provinces would object. It was also giving them a power which they already had, the power under the *Morgan* case and other cases which have been cited, to do the very thing that they may do under this amendment; that is, they already had the power to restrict land ownership to residents.

Now, as I understand it from the excellent explanation by Senator Connolly, all the amendment does is give the provinces a method of dividing those who will be prohibited into two classes: aliens and non-residents. That is all it does. It does not add any power that the provinces did not already have if they had wished to use the general exclusion of all non-residents.

I am not arguing whether it is a good or a bad amendment. I return to the point raised by the Leader of the Opposition, which is the constitutionality of this particular type of delegation. In other words, is this the right manner in which to do it? This is what the Leader of the Opposition has asked be taken into consideration before proclamation of clause 33. In the remarks which he just made, I believe the Leader of the Government has given an excellent "out," if I may use that word, because as I understood him he said that this amendment would not come into effect in any province until proclaimed by federal order in council for that province. That is my understanding of the remarks of the Leader of the Government. If this is so, then here is the mechanism already constituted for the government to accept the proposal of the Leader of the Opposition and merely undertake that it will not take the necessary steps by order in council to make this amendment effective until it has ascertained the constitutionality of the action.

Senator Bonnell: Honourable senators, I did not intend to speak to this motion but I should like to say a few words because Prince Edward Island has been mentioned several times today.

A little over 100 years ago Prince Edward Island had a serious problem, in that foreign landowners, from England, Scotland and Wales, controlled our lands. We joined Confederation to get that land back in the hands of our people. While I was a member of the Government of Prince Edward Island we amended the Real Property Act to provide that an alien could not own more than five acres of our land without the consent of the lieutenant governor in council. We were informed that the province did not have the power or the right to decide who was an alien, or to become involved in immigration matters, which were under federal jurisdiction. The only means by which we could preserve our lands for our farming people was by stipulating that no non-resident could buy land in Prince Edward Island. That prohibition would include Canadians from Saskatchewan, Alberta, Nova Scotia and the remainder of the provinces. That was not the wish of the people of Prince Edward Island, who only wanted to keep the land away from Americans, many of whom had been coming to the province and speculating, buying thousands of acres of prime shore property. Year after year, this land had been bought up by Americans, who would just sit on it, allowing yellow weeds to grow in. It would not be farmed and could not be purchased or used. They were sitting there, waiting to sell it to someone in Florida or New York at a tremendous profit. Somehow or other the province had to protect its people and keep that land in use so that the top six inches of the soil could be used by our people. The only way in which we could do that was by prohibiting non-resident land ownership. Now, with the assistance of the federal government which is prepared to make this change, we are able to say that such prohibition applies only to aliens, and that Canadians may buy land on Prince Edward Island and come there to live.

Let us not continue to procrastinate; let us get this bill through today, as fast as we can, before the million acres we have there now are sold to Americans. We wanted to be part of Canada in 1873; we do not wish to be bought out by America in 1976. Let us pass this bill with due dispatch.

Senator Lang: May I ask my colleague a question? How do the laws of Prince Edward Island as they now stand, or as they may be amended after passage of this bill, affect resident aliens of Prince Edward Island?

Senator Bonnell: If they are Canadian citizens, as I understand it they will be able to buy land; but if they are aliens, just because they come and spend three weeks in Prince Edward Island it does not entitle them to buy half of the province and own it while residing in the United States. They must become Canadian citizens.

● (1500)

Senator Connolly (Ottawa West): Under clause 33(1) an alien is entitled to own land in Canada.

Senator Macdonald: Honourable senators, I move the adjournment of the debate.

Senator Bonnell: Honourable senators, let us continue this debate.

The Hon. the Speaker: It is moved by the Honourable Senator Macdonald, seconded by the Honourable Senator Grosart, that the debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Hayden, seconded by the Honourable Senator Bourget, P.C., for the adoption of the Report of the Standing Senate Committee on Banking, Trade and Commerce on the Bill C-58, intituled: "An Act to

amend the Income Tax Act".—(*Honourable Senator Lang*).

Senator Lang: Honourable senators, I rise to stand this order. I gave notice to the Whip this morning of my intention to do so, in order that I might yield to any honourable senator who might wish to speak on the order this afternoon. I am not sure that any honourable senator wishes to do so, and, if that is the case, I shall ask that this order stand.

Senator Austin: Honourable senators, I am prepared to participate in the debate this afternoon. I hope to be succinct and constructive in saying a few words in respect of Bill C-58 which is now before us.

Since the early part of this year, I have been a member of the Standing Senate Committee on Banking, Trade and Commerce, and in my capacity as a member of that committee I have heard all, or very nearly all, the witnesses who have appeared before the committee regarding this bill. I have also read the reports of the evidence given to the committee, as well as much of the debate which took place in the other house.

I did not enter lightly into my duties as a member of the committee. Over many years of service in Ottawa, I have been aware of the respect in which the committee is held, and rightly held, and its contribution to better government in Canada.

I had, and have, great respect for its long-time chairman, Senator Hayden, who has been marvelously successful in piloting through his committee many items of controversial legislation, and in improving them while doing so. He has been successful too in gaining a spirit of reconciliation among many of those whose natural tendencies might otherwise not have gone in that direction.

As the work of the committee began on Bill C-58, it was apparent that there were many and varied points of view among committee members and that it would take a fair measure of Senator Hayden's talents to bring the committee to a constructive conclusion.

For my own part, I have had many concerns about the bill and I determined to hear the evidence impartially and objectively. I believe I have done that and I believe also that any perusal of my substantial participation in the questioning of witnesses will demonstrate that I had no goal other than to understand the purposes of the bill and its impact on the publishing and broadcasting communities.

Many issues have been raised both for and against the bill. On second reading, and again in this debate, we have had them arrayed for us. However, as Senator Hayden and I agreed in committee, the clear and main concern was with the question of the manner and nature of the definition of "substantially the same" in the Income Tax Act. Who was to say what this phrase meant and what should be its application? Was it enough that the Minister of National Revenue should say that it would require an 80 per cent difference in material before he would agree that something published was not substantially the same? Would the minister have that authority? What was the plain meaning of the words, and what would a court of law rightly do? Had the taxpayers who might be affected been given a proper opportunity to be heard and proper notice of changes in policy?

They are not insignificant questions. They are questions which must be presented and given a proper answer if the Senate is to do its duty to itself and in the public interest. The issue of the definition of "substantially the same," and on whose authority any definition would be promulgated, is one which has concerned me from before the time I became a member of the committee.

As the committee hearings began, I was not content to believe that the 80 per cent rule, if I may call it that, could be the last word on the handling of the question. I was not content that the decision of the Minister of National Revenue was properly based as a ministerial decision.

In committee, the Honourable Bud Cullen, the Minister of National Revenue, responded to questions on those points by defending the appropriateness of his decision under his statute and under the case law. Frankly, I, and many others of the committee, were not convinced that we agreed with him either on the case law or on the basis of the statute. However, he did go on to say that apart from the law, which he believed supported his decision, he had taken the question of the 80 per cent rule to the Cabinet. He told the committee that the 80 per cent rule was a matter of government policy. He went on to say that if his decision was upset in the courts, the government would introduce a bill to legislate the 80 per cent rule into law.

Mr. Cullen also told us that he might have proceeded to legislate the 80 per cent rule into Bill C-58 but was prevented from doing so by House of Commons procedure which would not allow a second ways and means motion on the same matter in the same session.

Not long after Mr. Cullen's appearance before the committee I spoke to Senator Perrault, the government leader, to tell him that Bill C-58 was deficient with respect to the authority for the 80 per cent rule, and that the government should consider an amendment in the Senate; or, if time was not available in the House of Commons to deal with Bill C-58 as amended in this session, then to give an undertaking to the Senate that such a provision would be introduced in the second session of this Parliament to repair the matter which concerned me. Senator Perrault promised me that this suggestion would be considered, and I hope that in his participation in this debate he will give constructive advice on this matter to the chamber.

On the question of notice to the taxpayers affected, and particularly, in the present circumstances, *Time* magazine, I am satisfied, on the evidence of Stephen LaRue, president of *Time* Canada, that due and full notice of the policy had been given.

The evidence shows that the Honourable Ron Basford had announced to a Canadian Press correspondent in February 1975 that he was thinking of the definition somewhere between 60 per cent and 80 per cent in terms of content. It was this press story that gave renewed activity to *Time* magazine's effort to negotiate with the minister.

I do not deny that *Time* magazine is understandably unhappy with the 80 per cent rule, and also with the delay in the ministerial decision until October 1975. However, Mr. LaRue made it clear that *Time* was not misled by the minister or any official.

Senator Cook has referred to a memo in the Department of National Revenue that seems to refer to a possible 50 per cent decision. This memo was given to *Time* during a discussion with officials in May 1975. It was unsigned, and the evidence shows that it was never submitted to the minister. Also, my view is that a fair reading shows that it makes no conclusive point on the question of what is "substantially the same."

The 80 per cent rule has troubled me, honourable senators, and I believe the Senate committee has been correct in being similarly concerned.

My difficulty with the report of the Senate committee is that it does nothing more than set up a legal procedure that will give rise to litigation, and provide in the meantime a substantial uncertainty and unsettling character to the publishing industry in Canada.

We have heard evidence—and I believe Senator Davey was correct in offering that evidence—that the publishing industry has acted on the basis of government policy, as set forth in the bill, and of the approval of Bill C-58 by the House of Commons.

I hope that a possible solution to the difference between the report of the committee on the content rule and the position of the government lies in the direction of an undertaking, as I have mentioned, to the Senate that the decision will not be based on the minister's view of what is his statute and what might be case law, but on a parliamentary decision, a decision of the House of Commons and the Senate, with respect to the 80 per cent rule. So far as I am concerned, the 80 per cent rule, on the evidence we heard in committee, appears to be necessary in order to support the development of the Canadian publishing industry.

● (1510)

Dealing with section 3 of Bill C-58, the broadcast provisions, I was most troubled by many views being put forward in my own community with respect to the border station KVOS-TV. It has a wide following. In fact, the evidence before the committee by Mr. Mintz, its president, was that it received between 85 and 90 per cent of its total revenue from Canadian advertisers and attracted 85 per cent of the television audience of the lower mainland of British Columbia.

It is, in effect, a Canadian station. It has tried very hard and, I believe, honourably and sincerely to obtain resident alien status in Canada. The evidence before the committee showed that it has returned a good deal of its revenues to Canada by way of investment in production facilities and employment in Canada, both part time and full time.

I have agonized over the problem of KVOS-TV and have come to the conclusion, not easily, that section 3 should be advanced in legislation as it is presently drafted. The evidence given by Mr. Mintz in response to questions by me indicates that although the profitability of KVOS-TV will decline, he fully believes that it will remain competitive and profitable in the Canadian market and will provide good service, a continuing service, to the viewers of the lower mainland.

I am satisfied that the new Vancouver television station—which I believe will come on the air in September of this year—was based, in application before the CRTC and in public expectation, on the passage of section 3 of the bill.

With respect to *MD* and the provision to allow publications promoting fine arts and religion into Canada, again I have been greatly troubled. It would be my hope that the government would give consideration to an exemption in order to allow for the flow of materials that are more analogous to academic freedom than being a substantial impairment to the Canadian publishing industry. I would hope that there would be some flexibility in that regard. However, I should inform the chamber that I am not prepared to hold up my support for Bill C-58 and its passage through this chamber should the government insist on proceeding without any undertaking with respect to *MD* and similar publications. I will, nonetheless, support the bill.

I cannot support the report of the committee on retroactivity for publications from December 31, 1975 to December 31, 1976. I cannot support that proposed amendment simply because so many Canadians have acted, as I pointed out earlier, on the basis of the passage of this bill, and because I believe, essentially, that this legislation has beneficial public purposes and should be enacted.

With respect to the provision for the proclamation of Part III of the bill, I do not think that a case can be made for depriving the Canadian government of the legislative benefits of that particular provision in terms of its negotiations with the United States government on cross-border problems. I would like to see the government acknowledge that there are tensions in Canada-U.S. relations with respect to cross-border, trans-border communications. I would like to see the government make a statement about further discussions in this respect. However, when all is said and done, it seems to me that we have to provide our government with a strong hand in its negotiations with the United States in this difficult area, and not with a weak one.

Accordingly, despite my respect for the Banking, Trade and Commerce Committee, of which I am its newest member, and my high regard for Senator Hayden as its chairman, I find myself in opposition, on the first possible occasion, to a report of that committee which has been presented to the chamber. I ask the indulgence of the committee for that. I have stated my views. I have stated my position. I ask honourable senators to support the bill.

On motion of Senator Lang, debate adjourned.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND (NO. 2)—SECOND READING—DEBATE ADJOURNED

Hon. A. Hamilton McDonald moved the second reading of Bill C-88, to amend the Canadian Wheat Board Act (No. 2).

He said: Honourable senators, Bill C-88, to amend the Canadian Wheat Board Act (No. 2), deals with only two matters. First of all, it provides that the members of the advisory committee to the Canadian Wheat Board be elected. Secondly, it provides for the arrangement of another pooling under the Canadian Wheat Board account with respect to malting barley. As a matter of fact, the second amendment is not confined to one additional pool of malt-

ing barley; it makes provision, pursuant to order in council, that from time to time new pools may be organized should the need arise. Some people are advocating pools for not only malting barley but for pearl barley and, perhaps, oats that are used for human consumption. It may be that other pools will be required in the future. This provision would give the Canadian Wheat Board the right to create such pools should the producers and consumers of this country deem it necessary.

Both these amendments are in response to requests from producers and producer-organizations. For some time there have been requests from producers to have an elected producer advisory committee. An advisory committee has been in existence almost from the inception of the Canadian Wheat Board, and it is my understanding that originally the advisory committee consisted of members of the grain trade and producers. Conditions changed from time to time as experience was acquired and the activities of the advisory committee were enlarged. It was only last fall that the new minister responsible for the Canadian Wheat Board, the Honourable Otto Lang, after consultation with producers and producer-organizations, came to the conclusion that the members of the advisory committee should be producers and should be elected by producers. Provision was therefore made to hold an election last fall and an 11-member committee was elected.

● (1520)

Then, of course, because this legislation was not in existence at that time, through an order in council those members who had won election were appointed to the advisory committee of the Canadian Wheat Board. As far as I know from talking to producers, to members of the Canadian Wheat Board and to people generally who are knowledgeable on this subject, they have found that this new system is probably the best that has so far been devised. The Canadian Wheat Board itself seems to be quite happy with the work of the advisory committee; the advisory committee seems to be making a contribution that the Canadian Wheat Board appreciates; it seems to be making a contribution to the producers and producer organizations in the Wheat Board area that both producers and producer organizations appreciate. I therefore think that, all in all, the new procedure is working out well for both the Canadian Wheat Board and the producers.

The bill also makes provision for the election of a new committee every four years. The next election will be held, of course, in 1978. If between elections someone resigns from the committee, or if a vacancy is created for some other reason, the bill gives permission to the minister responsible—the present minister is the Honourable Otto Lang—to appoint a member to fill the vacancy until the next election. In other words, there will not be by-elections. However, the new appointee to the committee will only fill that position until the next election.

The bill also makes provision for payment to members of the advisory committee, the cost of holding elections and expense accounts for members of the committee. It makes provision for at least six meetings per year between the advisory committee and the members of the Canadian Wheat Board. What is happening in fact is that the members of the advisory committee are performing some of the duties that are performed by provincial legislatures or members of Parliament. One could look at the Canadian Wheat Board as the cabinet and the members of the advisory committee as members of the legislature or Members of Parliament. The advisory committee members sit down with the Canadian Wheat Board and make recommendations to them. Certainly, they are not involved in the administration of the Canadian Wheat Board but they advise and bring to the Canadian Wheat Board the thinking of the producers and producer organizations.

Once the Canadian Wheat Board implements new policies, part of the duty and responsibility of the advisory committee members is to go back to the areas they represent and explain to and discuss with the producers and producer organizations why the Canadian Wheat Board is doing this and that. In addition to their perhaps legal responsibilities, if I may so term them, the members of the advisory committee have a moral responsibility, which they are accepting, to act as a public relations group between their fellow producers and the board, and between the board and their producers; it is a two-way street.

I repeat, the information I have been given to date would indicate that this advisory committee is doing a good job on behalf of the Canadian Wheat Board and the producers and producer organizations in the area of Canada that is under the Canadian Wheat Board.

The second provision under the bill sets up a pooling account for malting barley. At the moment the Canadian Wheat Board has four pools, one for red spring wheat, one for durum wheat, one for oats and one for barley. The intention under this bill is to create a second pool under the barley account. This account came into being because barley in Canada is sold chiefly for two purposes, for feed and for malting; it is a good malting barley and a good feed barley.

For many years there was very little agitation from producers to set up a separate barley account for malting barley only. There was reason for that. I can recall that many years ago, when you sent a sample of barley to find out if it could be accepted for malting, if you were successful you probably got from the maltsters, because they took your barley, a five cent premium over your No. 1 feed barley account. Generally the final payments made were not very much higher for malting barley than for barley that went into the feed trade. However, the situation has changed drastically, in that today malting barley draws a considerable premium over feed barley. I think that last year the premium would have been in the neighbourhood of $1 a bushel.

In each pooling account all of the costs associated with the handling and marketing of the grain that goes into that barley is deducted from the pool before the final payment is made to the producer. Because of the present situation, in which malting barley is drawing a considerable premium, which it appears will continue to be the case in the future, the malting barley producers have asked the Canadian Wheat Board to set up a separate pool distinct from the feed barley pool, and the Canadian Wheat Board and the minister are making provision to do this under the bill. This will mean that if there is a premium on malting barley it will not be disbursed to all barley producers across western Canada, but only to those who produce malting barley.

The producer of malting barley is involved in some extra costs over those for the production of feed barley. In the first place, with malting barley you must have excellent seed; you need a better quality seed than for feed barley. A cleaner crop is needed; you must make sure it is harvested dry, that no kernel is cracked and that the awn is not completely knocked off the end of it, because my understanding is that in the brewing process the first thing to do is to get the barley to germinate.

I don't know what you are muttering, Senator Grosart. You don't know any more about barley than you do about most subjects. If you don't want to listen to what I am saying you can leave.

I have no doubt that the farmer who takes the care and time to produce malting barley is entitled to a complete return from that barley rather than have part of it going to a producer who is attempting to grow only feed barley, and that is what this legislation provides for.

● (1530)

I want to repeat that as well as providing for pooling of malting barley, if in the future there is a demand for other pools, this legislation makes provision for it simply by order in council.

I can repeat that the legislation has been asked for by the producers and producer organizations in western Canada. I have heard no one disagree with the legislation. As a matter of fact, it provides for the barley accounts to commence as of August 1, 1975; in other words, the producers of barley in the crop year 1975-76 will be able to get full compensation under the barley pool in that the provision is retroactive to August 1, 1975. Of course, this crop year will end on July 31 next and it is my hope that the Senate can give speedy passage to this bill.

On motion of Senator Macdonald, for Senator Yuzyk, debate adjourned.

MEDICAL CARE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Azellus Denis moved second reading of Bill C-68, to amend the Medical Care Act.

[*Translation*]

He said: Honourable senators, a lot was written and said in the other place, both in the House of Commons and in the Committee on Health, Welfare and Social Affairs, about Bill C-68 which I have the privilege to sponsor on second reading.

Over 50 members of the other place participated in the debates, without counting the third reading speeches that lasted nearly a week in the other place. So I fear that anything we might say here on this subject could only be repetitive and we could hardly improve on what has been said in the other place.

The purpose of Bill C-68 is to impose a ceiling on the increase in the cost of the federal contribution to existing medical health services and also legislate on any new insured service that could be provided after June 23, 1975.

Honourable senators, following the many consultations with the provinces and Canadian medical associations, and the debates in the other place, this bill originally introduced on July 8, 1975 was indeed substantially amended to meet most of the objections not only from the good members of the other place but also to a certain extent the objections that the provinces and the Canadian Medical Association have against this bill.

Concerning the existing medical health services, the part of the federal contribution for the year ending in 1977 will not exceed that of 1976 by more than 13 per cent, and the part of the federal contribution for 1978 will not exceed that of the previous year by more than 10.5 per cent. With respect to subsequent years the contribution will be set by order in council, of course after consultation with the provinces and the groups involved, including medical associations, and taking into account every time, every year, needless to say, the rate of inflation, the cost of living, doctors' fees, their number, their use and so on, unless an agreement is reached before then between the federal government and the provinces. Furthermore there will be a possibility that the order in council be challenged and revoked by Parliament should 50 members ask that such an order in council be discussed in the House.

Honourable senators, as you see, the ceiling for the year 1979 and subsequent years set out in the original bill were taken out and replaced in the way I mentioned earlier.

After reading the debates we realize that the opposition to the original bill mainly had to do with those ceilings for the third and subsequent years which, among other things, would reduce the effectiveness of existing services. In that respect, may I be allowed to refer to the reply of the President of the Canadian Medical Association, Dr. Grisdale, to a question which was put to him in committee by the honourable member for York Centre, as reported in issue 44, page 13, as follows:

[*English*]

> MR. KAPLAN: So that 13 per cent ceiling is not going to damage the level of medical service in Canada, is it?
>
> DR. GRISDALE: Right.

And a little further down:

> DR. GRISDALE: No, in the brief, we have referred to the fact that we are not concerned in regard to the first two years.

[*Translation*]

As far as the provinces are concerned, they obviously prefer the present blank cheque system rather than a limited federal contribution, but these same provinces recognize that it is about time we should rationalize health care costs and look for less expensive operation methods without losing the efficiency of these services, and even allow the addition of new services. The meetings which the minister had with the various provinces have shown that their main objection had to do also with the 8.5 per cent ceiling set for rate increases in the third and following years. This ceiling has been dropped from the bill.

Honourable senators, Bill C-68 is also aimed at permitting the registration of new medical services introduced after June 23, 1975. As you can see, it is not a question of no longer helping the provinces; on the contrary, even new services are to be added to the existing ones.

With respect to these insured services, the 50 per cent share paid by the federal government will benefit only

those who will provide these new services, and this percentage will be based only on the average in the provinces offering these new services rather than on a national average for all existing services.

Honourable senators, I wish to emphasize that this bill does not mean that the federal government no longer wants to be a full partner with the provinces in providing better medical services and even in offering new ones. This must be viewed as a rationalization of the system, as an effort to put a stop to the excessive increases in salaries and other costs. Finally, this is aimed at providing at a better cost the same medical services without impairing their efficiency.

In short, this is a call for planning, moderation and a search for less costly alternatives, from which the provinces cannot but benefit.

● (1540)

[*English*]

Even in the present difficult climate the proposed ceilings on federal medicare contributions will still permit increases in the contributions. Indeed, the average allowable percentage increase for the next two years is actually greater than the average increase experienced from 1971-72 through 1974-75 when there were no ceilings. Ceilings for the years after 1977-78 will take into consideration, among other things, the rate of inflation at the time, changes in the costs of practice which the medical profession must face and the earnings of other groups.

In brief, the federal government intends to remain a full partner in the hospital insurance and medical care programs. Certainly, its contributions will continue to rise substantially. It is estimated that in 1976-77 the contribution to medicare will total about $124 million more than in the current year, and the contribution to hospital insurance will total about $340 million more. That proves that we want to remain in partnership with the provinces.

[*Translation*]

Honourable senators, I must add as well that after the introduction of the initial bill, the government put forward last fall the anti-inflation program which will certainly contribute to reduce the increase in medical costs, so that the percentage provided in the bill before us will most likely not be exceeded.

[*English*]

Honourable senators, to sum up, the modifications of the initial act are:

First, to remove the fixed ceiling in the third year, 1978-79, and in subsequent years, as originally proposed in Bill C-68. In its place provision will be made for determination of a ceiling by order in council.

Second, to provide for the establishment of a separate national per capita for each new insured health service or class of health service to which federal sharing is extended under the Medical Care Act. This change will provide a mechanism to ensure that any increases in the federal medicare contributions for new, lower-cost insured services to rationalize and improve the health care system will go only to those provinces providing the new services under the medicare program.

Third, to provide for a three-year exemption instead of a one-year exemption from the ceiling for new insured services. Application of any ceilings would only come into play subsequently as in the existing insured services.

Fourth, to allow any order in council ceiling to be revoked if 50 members ot Parliament request a discussion on it.

These amendments have been designed to satisfy some of the concerns of the provinces and of the medical profession with whom the Minister of National Health and Welfare held extensive bilateral discussions during the latter half of 1975.

[*Translation*]

Honourable senators, as you certainly know, Canada has one of the best medical care services in the world and, naturally, I include the hospital care services from which Canadians also benefit. The federal government insists on doing its part of the work as do the provinces to maintain and improve these services from which we should all be proud.

Honourable senators, I have given you a brief summary of this bill and when we meet in committee to study it further, we will have the advantage of taking the advice of the experts of the Department of National Health and Welfare who will make it a duty to answer your questions.

I am pleased to propose that Bill C-68 be adopted on second reading.

[*English*]

On motion of Senator Grosart, for Senator Smith (Colchester), debate adjourned.

PUBLIC SERVICE

ACTION OF TREASURY BOARD IN RELATION TO RECLASSIFICATION OF ECONOMISTS, SOCIOLOGISTS AND STATISTICIANS—DEBATE ADJOURNED

Hon. Eugene A. Forsey rose pursuant to notice:

> That he will call the attention of the Senate to the action of the Treasury Board in relation to the reclassification of the economists, sociologists and statisticians in the Public Service.

He said: Honourable senators, in spite of the fact that we have a rather thin house, I think I had better go ahead today with this inquiry which relates to a matter of, I think, some urgency and, in my judgment, of some importance.

I fancy that all honourable senators have received copies of a document issued over the signature of the president of the Economists', Sociologists' and Statisticians' Association of the Public Service dealing with the question which has arisen, the dispute, the conflict which has arisen between that association and the Treasury Board.

I should like first of all to lay a little background for the specific matter. As honourable senators are aware, under the present Public Service Staff Relations Act the question of classification is not subject to bargaining between the employer and the employees' organization, the union or association. As honourable senators are also aware, no doubt, under the recent report of the Joint Committee on Staff Relations in the Public Service it was proposed that

in new legislation classification should be made subject to bargaining.

Now, in the statement that the association has sent to me, and I presume to all the rest of us, the association observes, and I quote:

> Realizing that it—

The Treasury Board, that is.

> Realizing that it is shortly to lose its exclusive power in this field, Treasury Board has recently carried out several reclassification exercises. Both the Information Officers and the Stenographers have recently been reclassified. In addition, attempts have been made to reclassify the Meteorologists, Mathematicians, and the Commerce Officers.

That is the end of the quotation. By the way, I hope the reporters will not say "quote" when they are putting down what I have said, because I have never used that word as a noun. I say "quotation." This modern American habit of using the word "quote" as a noun is one that irritates me beyond description. It is a bastardization of the English language.

Now, I interpolate here that when the association says that the Treasury Board realizes that it is shortly to lose its exclusive power in this field, it would be better advised to say "may shortly lose its power," because the question of revision of the Public Service Staff Relations Act, I think, is not one that can be assumed to have taken place already or to be so near at hand that one can confidently assume that all the recommendations of the special joint committee on the subject will be included.

Anyhow, the suggestion there is plainly—and I am afraid there may be something in it—that the Treasury Board has been attempting to jump the gun, fearing that it may lose its exclusive power in this field.

Now, to come to the specific question. The contract between the Economists', Sociologists' and Statisticians' Association and the government was to expire—well, in fact, it now has expired—on June 27.

One of the complaints of employees in the Public Service in relation to collective bargaining is that very often negotiations have been postponed until long after the expiry of the contract. There has been a good deal of comment on this and it has generally been derogatory comment. I think there has been derogatory comment in this house. There have been suggestions that some of the difficulties which have arisen in staff relations in the Public Service have arisen from the fact that negotiations were deferred or prolonged long past the expiry of the contract.

● (1550)

I have no hesitation in saying that I think that that is a deplorable situation when it does occur, and it does not contribute to good relations, or, indeed, to the public welfare.

Well, the Economists', Statisticians' and Sociologists' Association decided that it was desirable to get negotiations going well before the expiry of the contract, so it presented its proposals for a new contract to the Treasury Board on April 29; in other words, almost exactly two months before the expiry of the contract. Now comes something that is almost incredible. At 5 o'clock in the afternoon of April 28, the Assistant Secretary of the Treasury Board, one Mr. Tennier—who, I should assume, from his name, may be of French ancestry, although it is probably a long way back, since I understand he is English-speaking—the very day before negotiations were to begin, conveyed to the association that the Treasury Board intended to abolish the old classification structure and replace it with a new structure, the exact nature of which had not been decided. I emphasize those words: "the exact nature of which had not been decided."

When I heard this, and I heard it from a member of the association before I got this document from the president, I could scarcely believe my ears. I thought they must have handed in their portfolio, to borrow a phrase from P. G. Wodehouse, and when I got the document I could scarcely believe my eyes. The kindest thing one can say about this kind of action on the part of the Treasury Board is that it is absolutely insane. You do not need any particular knowledge of industrial relations to realize the complete boneheadedness and the provocative nature of this action, you only need a little bit of ordinary common sense. If you are going into negotiations with an organization—negotiations which will undoubtedly include some proposals for changing the amount of remuneration for different classifications of employees—you do not, the day before, almost literally at the eleventh hour, say, "Well, boys and girls, we do not need to go into too much in the way of negotiations on this because you can propose new remuneration, alter remuneration, improve remuneration or change remuneration for this, that or the other job, but the jobs are going to disappear. You don't know what jobs are going to be there."

I never heard of such a thing. I cannot imagine what demon can have possessed the people at the Treasury Board who did this. Well, anyway, this is what they did, and the association naturally protested. I am quite aware that the Treasury Board had the legal power to do this. The Treasury Board can do anything it likes; it can "faire la pluie et le beau temps", to use a French phrase, on this matter of categorization and reclassification. The association protested, naturally, saying—and I quote the president's statement directly:

> —pointing out that the Treasury Board was not setting a good example to the departments in the method of consultation and was making a mockery of the Government's attempts to foster good labour-management relations in the private sector.

I think that can be characterized as a moderate statement, a restrained statement. The president's comments continue, and I quote again directly:

> Nevertheless, although we were not consulted on the decision to terminate the old structure, we expressed our desire to consult on the one to replace it.
>
> We indicated however, that if such consultation were to be meaningful, it should be conducted over a reasonable period of time, and should therefore be postponed until the current round of negotiations was over.

Assistant Secretary Tennier's reply was bureaucratic in the extreme.

Then comes a direct quotation from Mr. Tennier's reply, and Caesar Augustus from his throne could scarcely improve upon this:

> It is a fact that the Employer has taken a decision to terminate the present five level classification structure, a decision fully in accordance with its responsibilities provided for in legislation.

This is undoubtedly accurate, and undoubtedly correct, but of an imbecility, if I may vary my term of abuse, that staggers the imagination.

The president of the association continues—and I quote directly:

> He—

That is, Mr. Tennier.

> —went on to reject our request for a postponement of action on the classification structure, arguing that a new structure could be introduced within two months, and suggesting the postponement of current negotiations until consultation has taken place. From a glance at the preliminary documents issued by the Treasury Board, there will be a considerable amount of red-circling (downgrading) of our members' positions, and if our members' interests are to be effectively safeguarded, the consultation process will be much longer than the two months suggested by Mr. Tennier. In fact, conversions have taken more than a year in some recent reclassifications.

I pause there to say that from my own knowledge I can say that "more than a year" is a very mild way of putting it. I know of one section of one department in which a reclassification went on for more than two years.

I might add that during that time no new staff could be hired and they took on a large number of people from Office Overload, or something similar, some of whom, at least, were not sworn in until one official insisted that they should be. They were handling cabinet documents, of whose sacredness we have heard a great deal, many times, but nevertheless they had not been sworn. He insisted that they should be sworn, and one of the other officials said, "We have no Bible here." The answer was, "I don't care what you've got. You've got to swear them on something." Then a Jewish member of the staff said he had a Talmud, so they were sworn in on the Talmud.

The suggestion, therefore, that the thing would only take two months is simply ludicrous. It is almost beyond belief, like so much else in this.

The president then says:

> If we accept the suggestion of Treasury Board, negotiations could be protracted for over a year.

The president goes on to say:

> It is our contention that Treasury Board is making a farce of the consultation process, disrupting the collective bargaining process, and contributing to deterioration of morale among federal employees.

That leads me to the last main point that I want to make. Again the president of this association is putting it very mildly when he says that this is contributing to a deterioration of morale among federal employees, and he might have emphasized, or italicized, the word "contributing." I do not know what other members of this house get on this subject from members of the Public Service, but I have repeatedly received, from a great variety of members of the Public Service, or former members of the Public Service, the most hair-raising accounts of the deterioration of morale in the Public Service of Canada over recent years. I want to say very emphatically that any suggestion that this is simply a by-product of the process of introducing bilingualism, or more bilingualism, into the Public Service, is not involved in what I am about to say at all. If there were no question of bilingualism there would still have been a disastrous decline in morale in the Public Service of Canada.

I want to say specifically that I have had reports on this subject from five different people, four of whom I know well and the fifth of whom I know a great deal about, and they are as varied a sample as you can possibly get. If I got this kind of report from one particular person, let us say some English-speaking public servant who felt that he had been passed over because a French-speaking public servant had been promoted over his head, or from a French-speaking public servant who felt he had been discriminated against because he was French-speaking and had not been advanced as he should have been, or from an immigrant of some particular variety who felt he had been discriminated against because he was an immigrant, or from a young person who felt he wasn't going ahead fast enough, or from an older person who felt that young people were being promoted over his head, I might have said, "Oh well, this is exceptional." But these reports that have come to me have not come as a request to me to do anything about the thing specifically, or to exercise any influence, or anything like that; they were merely given to me as a matter of information.

They have come to me first of all from a youngish French-Canadian whom I know very well, an extremely competent person, of excellent judgment and vast knowledge, who has been 17 years in the Public Service, and who, I may add, cannot say that he has been given any special favours because he was a French-Canadian—quite the contrary. He could very well say, in my judgment, that he had been passed over when he ought to have been promoted. Anyway, there is the first piece of evidence I get from this youngish gentleman—he may be in his late thirties or his early forties. And I get this story from him.

● (1600)

Then I get it from a retired, high, senior official of the public service, whom I have known for many years, and who is of British origin, and who comes from the Maritime provinces. I know him very well. All these people are people whose veracity and whose balance I cannot for one moment question.

Then I get it in the third place from a gentleman now retired who occupied a very high position indeed in the Public Service for many years. He is in fact an immigrant from the United Kingdom who came here many, many years ago and who occupied successively many positions in the Public Service, winding up in a very eminent position indeed. And he has, I think I may say, an international reputation in his field.

Then I get it from a European immigrant, a continental European immigrant, of my acquaintance who has now had many years' experience in the Public Service, and who

had an important position in the public service of another country before he came to Canada some 20 years ago. It is more than 20 years ago, I think, because I have known him for about 20 years.

And I have it finally from an Asian immigrant, a man of very high professional qualifications in a very specialized field.

I don't want to specify more particularly what the qualifications of these people are or their origin because that might lead to somebody ferreting out who they were and cause some difficulty for them. But I get the same story from all of them, and one part of it, one important part of it is this: that constantly people are parachuted into department after department by and from the Treasury Board. Office on the staff of the Treasury Board is apparently the open sesame now to almost any kind of appointment you like. Over and over and over again somebody, sometimes very young—sometimes in his twenties—is bounced into a particular department and put over people of much greater knowledge and experience in that department. In one case a gentleman that I know now finds himself under the orders of a young lady, much younger than himself, whom he trained. Everything she knows about the job she learned from him.

I am not going to say that age and experience are the whole show—far from it. I am not going to say that we should not have new blood coming in, that we should not advance young people in the Public Service when they are qualified. But I do say that it is a very bad situation when official after official after official—and some of these people have given me the evidence of colleagues of theirs, some of whom have retired and some of whom are still there—but official after official after official finds that experience in a department, knowledge of the work of that department, is discounted as being of virtually no importance whatsoever. And when people who possess a Harvard business degree and who are still wet behind the ears and know nothing whatever of the job they are coming into and nothing whatever of the subject they are going to deal with are parachuted into these high positions as director general of this or director general of that—this is the worst possible kind of thing for morale in the public service and it is going on all the time.

There are some—and I don't want to use another strong term because I have used some very strong language already this afternoon and I must try to restrain myself—but there appears to be some notion, shall I put it that way, in high quarters that a degree in business administration is sufficient for everything; that if you can manage anything, you can manage anything else; if you can manage a grocery store, then you can manage a division of the Department of Health and Welfare or a division of the Ministry of Science and Technology or a division of the Department of the Environment or of the Ministry of Urban Affairs or what you like; that anybody can be picked up from a slot in one place where he is managing and put in a slot in another place where he is managing, and the question of whether he knows anything at all about what he is managing, whether he knows anything of the subject, is apparently of no importance.

It is like this loony idea you get in educational circles that the method of teaching is the only thing; it doesn't matter whether the teacher knows anything at all about the subject, but he must be skilled in all the methods, and I won't say the latest methods, taught in the United States, because our habit in this country in educational circles appears to be just to pick up the worn-out old clothes of American educational "experts"—in quotation marks—and then go parading around in these rags, these outmoded rags, under the pleasing delusion that they are the latest thing from Fifth Avenue.

Well, the same kind of delusion appears to be entertained by people in high positions in this country. I don't know quite who they are—somebody who apparently has immense power or some group of people who apparently have immense power—and they seem to think that as long as you have somebody trained in management, it doesn't matter two hoots in Hades whether he knows anything at all about what it is he is managing. This is the kind of thing that is leading to the deterioration of morale in the Public Service, serious deterioration, grave deterioration and, if it goes on, disastrous deterioration. Then on top of all this, these people, these noodles, these possessed people—I don't know how to describe them in parliamentary language—come along and do a crazy thing like this. How on earth anybody who is even grown up and in possession of a moderate proportion of his wits, let alone people holding positions of high authority in the Government of Canada, can do or countenance this kind of thing is absolutely beyond me.

When I got this document I saw red and I was determined that the whole subject should be given in the Senate immediately, or as soon as I could do it, such ventilation as I was capable of. I have now done that, and I hope it has roused some members of this house to investigate these matters further. And I hope some echo, in spite of the fact that there is nobody in the press gallery as usual, I hope some echo of these remarks of mine—which may be considered intemperate but which I can assure you, honourable senators, I could have made much stronger without any difficulty whatever—I hope some echo of these remarks will get through to people in authority who are capable of putting a stop to this kind of insane behaviour which the Treasury Board has indulged in in this particular case.

On motion of Senator Langlois, debate adjourned.

The Senate adjourned until Tuesday, July 6, at 8 p.m.

THE SENATE

Tuesday, July 6, 1976

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Copies of Joint Declaration, issued following the International Conference held in Puerto Rico, June 27-28, 1976.

Copies of report to the Minister of National Health and Welfare from the Canada Pension Plan Advisory Committee on private retirement, disability and survivorship plans.

Report on operations under the Regional Development Incentives Act for the month of February 1976, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

Report of operations under the Civil Service Insurance Act for the fiscal year ended March 31, 1976, pursuant to section 21(2) of the said Act, Chapter 49, R.S.C., 1952.

Report of the Army Benevolent Fund Board, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 13 of the Army Benevolent Fund Act, Chapter A-16, R.S.C., 1970.

Report on the administration of the Canadian Forces Superannuation Act, for the fiscal year ended March 31, 1976, pursuant to section 28 of the said Act, Chapter C-9, R.S.C., 1970.

Report on the administration of the Canadian Forces Superannuation Act, Part II, including amounts credited to or charged against the Regular Force Death Benefit Account for the fiscal year ended March 31, 1976, pursuant to section 41 of the said Act, Chapter C-9, R.S.C., 1970.

Statement by the Department of National Defence of moneys received and disbursed in the Special Account (Replacement of Materiel) for the fiscal year ended March 31, 1976, pursuant to section 11(4) of the National Defence Act, Chapter N-4, R.S.C., 1970.

IMMIGRATION

GULF ISLANDS, BRITISH COLUMBIA—MINISTERIAL DISCRETION PERMITS—QUESTION

Senator Bell: Honourable senators, I should like to direct a question to the Leader of the Government in the Senate. It concerns people living in the Gulf Islands of British Columbia. I wonder if the Leader of the Government could ascertain:

(a) the number of people living in the Gulf Islands of British Columbia who are in Canada under a ministerial discretion permit;

(b) how many of those people own property in the Gulf Islands; and

(c) how many have criminal records which prevent their having "landed immigrant" status?

I ask the Leader of the Government to include in the "Gulf Islands" Quadra, Hornby, Denman, Lesquiti, Jedidiah, et cetera, in the north and, going south, take in Salt Spring, Pender and Saturna.

Senator Perrault: Honourable senators, because of the technical and detailed nature of the question, I must take it as notice.

Senator Flynn: Surprise.

Senator Perrault: It will be my intention to supply the information if it is available.

TRANSPORTATION

BILINGUAL IFR AIR TRAFFIC SERVICES—COMMISSION OF INQUIRY—QUESTION

Senator Flynn: Honourable senators, may I ask the Leader of the Government if he has tabled the letter from the commissioners appointed to inquire into the air controllers' and air pilots' problem?

Senator Perrault: Honourable senators, the letter and the documentation appear in the *Debates of the Senate* and form part of the permanent records of this house.

Senator Flynn: I mean the letter from the commissioners to the Minister of Transport. I understand it was tabled in the other place. I was wondering whether it was tabled in this place.

Senator Perrault: Honourable senators, as yet I have not received the document for tabling in this chamber. However, it will most certainly be tabled here.

Senator Flynn: I think it would be of interest if it were tabled here—and tomorrow if possible.

COPYRIGHT ACT

CROWN COPYRIGHT—MINISTER OF SUPPLY AND SERVICES

Senator Forsey: Honourable senators, I wonder if I might ask the Leader of the Government if he has succeeded yet in getting any information about that question I asked some time ago on the supersession of the former terms of copyright of government publications, the replacement of "Crown copyright reserved" by the words "Copyright Minister of Supply and Services."

I found the same formula on another document today. I have it upstairs.

Senator Perrault: Honourable senators, that information has not been made available as yet. A reply will be provided as quickly as possible.

Senator Forsey: I hope the Department of Justice can speed matters up, because it seems to me a fairly simple thing to discover. I should have supposed they could manage it in the time that has elapsed since I asked the question.

Senator Perrault: I know that they are according a high priority to the request, and I will contact them tomorrow.

CITIZENSHIP BILL

THIRD READING—MOTION IN AMENDMENT—DEBATE ADJOURNED

The Senate resumed from Wednesday, June 30, the debate on the motion of Senator Connolly (Ottawa West) for third reading of Bill C-20, respecting citizenship.

Hon. John M. Macdonald: Honourable senators, it is certainly not my intention to speak at any length on this subject. I realize that I have not given too much study to constitutional questions; indeed, until I heard the debate on Bill C-20 I did not realize its implications. I did realize, I might say, its practical implications, and at this time I only wish to state that I fully support the misgivings which were expressed by Senator Smith (Colchester) as to what might be the practical implications of this clause.

The Province of Nova Scotia does not have any act of the legislature prohibiting the acquisition of land by non-residents. I sympathize with the point of view of those from Prince Edward Island who do not wish a non-resident to acquire land parcels of more than 10 acres. Not to have such a prohibition could easily lead to good agricultural land being taken out of production.

As far as Nova Scotia is concerned, and particularly the island of Cape Breton, whence I come, I do not think that argument applies. We do have on the provincial statutes the Land Holding Disclosure Act, pursuant to which a non-resident who acquires land in Nova Scotia must, immediately upon completion of the conveyance, deliver to the registrar a disclosure statement setting out precisely what land was acquired and the purpose of the acquisition. That act does not apply in the event that the land in question is acquired by will, or to corporations incorporated under the laws of Nova Scotia.

Personally, I have never understood the necessity of such a disclosure statement. The information could be obtained, if the government desired it, just as easily, or perhaps more quickly, by simply contacting the various regional assessment offices. Certainly, I do not think the Government of Nova Scotia for one moment would ever consider prohibiting the acquisition of land by non-residents or, should this bill be passed, by non-Canadian citizens. We are glad to have non-residents acquire land in our province. In many cases good sales have been made to American citizens of what might be considered poor land. Often the land is used as a site for a summer home. I might say that Cape Breton is a very, very pleasant place in which to live.

Hon. Senators: Hear, hear!

Senator Macdonald: People who come to Cape Breton like to stay, and we encourage them to. I hope the day will never come when we prohibit non-residents from acquiring land in that area.

In listening to the debate on the constitutional issues, namely, whether the bill contains a delegation of power, whether it is a legislation action or administrative action, whether it would interfere with the rights of the provinces, and the like, I became somewhat confused. For that reason I believe that the bill, as Senator Connolly (Ottawa West) suggested at one point, should be referred back to the committee to consider the implications of clause 33.

Consequently, I move, seconded by the Honourable Senator Grosart, that this bill be not now read the third time but that it be referred back to the committee to consider the implications of clause 33.

The Hon. the Speaker: It is moved by the Honourable Senator Connolly (Ottawa West), seconded by the Honourable Senator Macnaughton, that this bill be now read the third time.

In amendment, it is moved by the Honourable Senator Macdonald, seconded by the Honourable Senator Grosart, that this bill be not now read the third time but that it be referred back to committee to consider the implications of clause 33.

● (2010)

Hon. John J. Connolly: Honourable senators, I intended to ask for leave to speak, but now that the motion has been made I think I am entitled to do so.

I rise to deal only with a point raised by Senator Grosart—and a perfectly valid point it was. On the last occasion when we discussed this bill I placed upon the record the provisions of section 2 of the Agricultural Products Marketing Act, which is chapter A-7 of the Revised Statutes of Canada, 1970. I was arguing, as honourable senators will remember, that section 2 of that act was comparable in practically all respects to subclause (2) of clause 33 of the bill now before us. Senator Grosart made the perfectly valid point that simply because there is a similar section in another statute is no justification for assuming that the clause in question is valid. That is correct, because the original statutory form could have been unconstitutional and invalid.

However, section 2 of the Agricultural Products Marketing Act, to which I referred the other day, went before the Supreme Court of Canada, where the decision was unanimous, and it might be helpful if I place on the record a dictum from the judgment of Mr. Justice Taschereau in the case of *The Prince Edward Island Potato Marketing Board vs. H. B. Willis Incorporated*, (1952) Supreme Court Reports, page 392. I quote from page 410 of Mr. Justice Taschereau's judgment, where he said:

> The federal legislation does not confer any additional powers to the Legislature but vests in a group of persons—

In this case the lieutenant governor in council or any person or authority delegated by the lieutenant governor in council.

—certain powers to be exercised in the interprovincial and export field.

Those fields, of course, are beyond the normal jurisdiction of the provinces. He goes on:

> It is immaterial that the same people are empowered by the Legislature to control and regulate the marketing of natural products within the Province. It is true that the Board is a creature of the Lieutenant-Governor in Council, but it does not prevent it from exercising duties imposed by the Parliament of Canada.

I think perhaps that that passage deals with the point Senator Grosart so clearly raised.

Hon. Jacques Flynn: Honourable senators, I listened with great attention to Senator Connolly. That case he raised may have some relevancy, but it is not very convincing because the vesting of administrative powers and the vesting of legislative powers are two quite different matters. In the case at hand the lieutenant governor in council is given the power to restrict or annul the acquisition of lands. This is purely legislative. I think the point is not fully met by the decision Senator Connolly has cited. However, this is a point to be argued further if the Senate so desires.

I rise at this time to deal with the answers that the Leader of the Government gave in response to my suggestion last week that the bill be referred to committee so that we could ask the minister that before the act is proclaimed clause 33 be submitted to the Supreme Court for an opinion on its constitutionality. I also suggested that the minister might agree to an amendment to provide that clause 33 be not proclaimed before such a reference could be made.

At page 2312 of the *Debates of the Senate* for June 30, 1976, Senator Perrault made the following statement.

> Clause 33 will only come into force in a given province when declared to do so by proclamation of the Governor in Council.

Well, I have read the bill and I have found that clause 43 entitled "Commencement," reads as follows:

> 43. This Act shall come into force on a day to be fixed by proclamation.

I read that as meaning that the whole act will come into force on proclamation and that the Governor in Council has no discretion to proclaim sections of the act separately. I find I am fortified in that argument by an article which Senator Grosart gave me as we were entering the house. The article is entitled "The Central Fallacy of Canadian Constitutional Law," and was written by J. Noel Lyon. The article appeared in the McGill Law Journal, Volume 27, Spring, 1976. Referring to the breathalizer law which was introduced in Canada in 1969, Mr. Lyon points out that it was referred to the Supreme Court for an opinion as to its validity and also to determine whether some, but not all, of the provisions of the amendments could come into force on a given day. But I find that the section dealing with the coming into force of that act reads entirely differently. In that particular case it was stated:

> This Act . . . shall come into force on a day or days to be fixed by proclamation.

That suggests immediately and very clearly that the intention was that some provisions should come into force on certain days while others would come into force on other days. But, I suggest to you that in the bill before us the discretion is not given to the Governor in Council to proclaim the whole act, with the exception of section 33, and then to proclaim section 33 later on. Therefore, I am not satisfied with the statement of the Leader of the Government.

To meet the points I had made, the Leader of the Government said that it was only necessary merely to undertake that it would not take the necessary steps—it meaning the government—by order in council to make this amendment effective until it has ascertained the constitutionality of the action.

I should like that undertaking to be completely reassuring. If in the first place the power is not in the act to proclaim the coming into force of section 33 separately from the rest of the act, then this undertaking means nothing. But if the undertaking is serious, I should like it to be clarified. We should get the assurance that the government will not proclaim section 33, even if it has the power, and I do not think it does—at the same time as the rest of the act. I should like the assurance that it means that the government will submit this clause to the Supreme Court for its opinion on its constitutionality. If I could be convinced, first, that the government has the power to delay the proclamation of clause 33 and, second, that it really means to submit that question to the Supreme Court, then I would be satisfied. Otherwise I think we should have the bill referred back to committee and see what the minister thinks about it. But I doubt the Leader of the Government can give me the assurance I want.

● (2020)

Senator Perrault: Honourable senators, of course it is impossible for me to give that kind of assurance at this time. However, I can undertake to discuss the matter thoroughly with the minister in the next few hours. Accordingly, I would move adjournment of this debate.

Senator Grosart: Before the question is put, I should like to thank Senator Connolly for the obvious attention he has given to the point I raised, and ask him further if he would consider whether the case of *The Prince Edward Island Potato Marketing Board vs. H. B. Willis Incorporated* and the situation before us now in this bill are really parallel. In quoting Mr. Justice Taschereau, he gave the impression that the case turned on the granting of additional powers to the legislature, which is not, of course, the situation in this particular bill. Perhaps at some time Senator Connolly would clarify whether the two cases are parallel or not.

Senator Connolly (Ottawa West): I think the answer is that the cases are parallel. In the case of *The Prince Edward Island Potato Marketing Board vs. H. B. Willis Incorporated* it was a question of whether or not the federal authority could in fact delegate to the provinces the right to regulate. I will not say "to legislate," since the use of the word "legislate" raises difficulties. Senator Flynn's problem arises from the use of the word "legislation" and the idea of administrative delegation, but I think the dictum from the Supreme Court judgment applies not only to section 2 of the Agricultural Products Marketing Act, but also to subclause (2) of clause 33 of the bill before us.

On motion of Senator Perrault, debate adjourned.

INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Hayden, seconded by the Honourable Senator Bourget, P.C., for the adoption of the Report of the Standing Senate Committee on Banking, Trade and Commerce on the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Lang*)

Senator Lang: Honourable senators, I would like to explain briefly my intentions tonight. As far as I am personally concerned, I have done my preparatory work and am quite prepared to proceed in this debate at this time. However, I have been considering my position in this context, and feel it would be inappropriate to do so. I beg the indulgence of my colleagues in this matter, and assure them that in asking that this Order stand I do so only after a great deal of consideration. I am, in fact, asking that this Order stand, but am quite prepared to yield to any other senator who might wish to participate in the debate at this time.

Hon. J. J. Greene: Honourable senators, I would like to take advantage of Senator Lang's kind invitation if I may.

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

Hon. Senators: Agreed.

Senator Greene: Honourable senators, with regard to this report, it seems to me that what it does not say reassures me, in some ways, more than what it does say. I think the essential problem with regard to the amendment is whether or not, under the guise of taxation, the bill has the effect of impinging upon the right of free speech and free publication. The fact that this excellent committee, after exhaustive hearings under its experienced chairman, who has the respect not only of this Senate but of the whole country, does not find that it is an infringement upon the right of free speech or free publication reassures me, as does the entire debate, both here and in the other place, so that that is not now a matter of concern to me.

We should have been particularly wary in that the most vocal and effective proponents of the measure in the first instance were those who had a vested interest—the Canadian publishing industry—and this, I think, caused many of our concerns that this should not be censorship under the guise of a tax measure. It is, perhaps, of interest to note that at the time this measure was before Parliament in various committees, just 333 years had passed since a similar measure was before the Mother of Parliaments at Westminster under the guise of licensing printing. That measure which was couched in terms of licensing, rather than in terms of inhibiting, free speech resulted in perhaps the most famous defence of the right to free publication ever made in the English language, namely, John Milton's *Areopagitica*. In *Areopagitica*, Milton, among other things, said as follows:

> For who knows not that truth is strong next to the Almighty; she needs no policies nor strategems nor licensings to make her victorious. Those are the shifts and the defences that error uses against her power.

Then it was some 117 years ago that another defence of the right of free speech and free publication was made within the ambit of John Stuart Mill's classic *Essay on Liberty* in which, among other things, he wrote as follows:

> Let us therefore suppose that the government is entirely at one with the people and never thinks of exerting any power of coercion—

By which he meant repression of free speech and free publication.

> —unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst.

So my concern was very deep and sincere that under the guise of tax law we were, in fact, repressing the right to free speech. Truth has no national boundaries that I know of, and there should be the right of publication, and there should be the right for all Canadians to read publications emanating from any nation whatsoever, because on that essential foundation surely stands the very essence of our liberties.

Honourable senators, I was concerned that possibly under the guise of tax law we were inhibiting this inherent right of free people to receive publications from any country, wherever they might emanate, and, as I said, I was reassured not only by the debate in the Senate and in the other place but also by the fact that the excellent committee which is reporting to this house had no concern in its report that this measure was in any way an infringement upon the liberty of publication, but was truly and essentially a tax measure. Such being the case, I suggest that we should deal with the report and the bill itself as such. As it is a tax measure, completely within the responsibilities of government and in no way a repression of free speech or the right to free publication, I suggest, with respect, that the Senate should support the bill itself and reject the report.

● (2030)

Senator Flynn: Why?

Senator Greene: In that the report deals essentially with matters of government—

Senator Flynn: You are not serious, are you?

Senator Greene: If there is one thing—

Senator Flynn: You are not serious?

Senator Greene: If it comes to pass that free institutions—

Senator Flynn: Matters of government?

Senator Greene: —and free government as we know it disappears from the ways of mankind, it will probably be more because free governments cannot govern today rather than because they have limited or inhibited freedom.

Any group whose voice is sufficiently loud, be they airline pilots or be they a powerful vested group of any kind throwing milk at a cabinet minister on the steps of the Parliament Buildings, or moving to prevent govern-

ment from acting, can apparently prevent the government of a free people from acting and I suggest that the government—

Senator Flynn: Let us go home.

Senator Greene: The Minister of National Revenue, in proclaiming the "80 per cent substantially different content rule" last fall was quite properly doing an act of government. For us to hold that up, which we would be doing in supporting the report, would be merely making it impossible, or very difficult, for the government to carry out its function, as opposed to the legislative function.

Senator Asselin: That is what you are doing here.

Senator Greene: I suggest, honourable senators, that this measure has had the support, first, of the O'Leary Commission. Our late, dear and great friend—

Senator Flynn: It is about time you came to that.

Senator Greene: —certainly was not one, whatever his political views may have been, who could ever have been accused of not being a great libertarian from the standpoint of the freedom of the press. The principle of the bill subsequently had the support of a committee of this house, which I believe became known as the Davey Committee on Mass Media. So its principles are clear. The government has made its decision, and those who oppose the 80 per cent rule have the right to appeal that administrative decision to the courts if they see fit. The government, on the other hand, as the Minister of National Revenue has proclaimed, has the right subsequently to bring in further legislation if the decision of the courts is unfavourable. In my opinion, it should not be the function of the Senate through the approval of a report to anticipate judicial decisions, or to supplant the courts in their function.

I suggest that this bill has had a thorough review, that it is in no way an impairment of human liberty or the liberty of publication and, this being the longest session of Parliament in our history, I respectfully suggest, honourable senators, that we should deny the report and pass the bill in order to enable the fulfilment of this measure, which has had such a long legislative history already. If we sit much longer on it we may by the very delay in implementation have rendered ineffective those very methods of free government to achieve its objectives, which I am sure all of us are here to uphold.

Therefore, I respectfully submit, honourable senators, that we support the bill and get on with the further business of this, the longest session in the history of our country, before some new Cromwell comes to this place and says, "Gentlemen, you have tarried too long."

Senator Flynn: Ho, ho, ho; those are the best jokes I have heard in years.

Hon. Ernest C. Manning: Honourable senators—

Senator Smith (Colchester): Let us all go home.

Senator Perrault: Let us have free speech now.

Senator Manning: Honourable senators, inasmuch as Senator Lang has yielded to other senators the opportunity to continue this debate this evening, I would like to ask the indulgence of the house to make a few comments with respect to this motion. Owing to the disruption of air travel

I was not able to be here when the committee held its final meetings and the report was formulated. However, as a member of the committee I would like to put on the record my endorsation of the report and my full support for the amendments to the bill which the committee is recommending to this house. While I concur fully with the report under the circumstances which were taken into account by the committee, with respect to two matters related to this question I would like to have seen the committee go even further than is recommended in the report. I wish to make it quite clear that I endorse fully the basic principle of the legislation, which is that advertising must appear in a Canadian publication if the advertiser is to qualify for that expense being written off for tax purposes. I believe most of us will accept that principle without very much question. However, the first of the two points which do concern me is the definition of a Canadian publication for the purposes of this legislation. I submit that Parliament would be on much sounder ground if it confined the definition of "a Canadian publication" to a publication of a company incorporated under Canadian law, in which a substantial majority of the equity stock is held by Canadians to ensure that the ownership control is in the hands of Canadians and a company in which the management is Canadian. If those three requirements are met, any such company should be at liberty to publish any kind of legitimate publication it wishes without having the government dictate what the content of the publication should be.

● (2040)

In my judgment that is an area in which the government has no valid right to interfere. It should simply concern itself with a proper definition of a Canadian company, and advertisers using whatever that company publishes should be entitled to the tax benefits the act provides, as compared with advertising placed in a foreign publication.

If it is the government's intention to go beyond that point and interject control of content—which I maintain is wrong—it certainly should not be done in an Income Tax Act. It should be a matter of government policy on that specific subject, which has nothing whatever to do with the question of income tax.

The second area in which I would have liked to see the proposed amendment go further concerns the problem of the border television stations about which the committee heard so much. I would have preferred to see the section dealing with border television deleted entirely from the bill, to be considered at some later date after a genuine effort had been made to work out a mutually satisfactory and equitable arrangement for both the Canadian and American interests involved. I say this because this question bears on the far broader question of Canada's overall relations with the United States. When we get into that field, we are talking about a trade partnership which represents something like $60 billion in two-way trade between our two countries.

No one will argue that this is not of tremendous importance to Canada, because the United States is our biggest export market, and on our trade relations depend thousands of jobs of Canadian workmen, to say nothing of the overall impact on our economy.

Let me make it quite clear that what we are talking about in this report, and this legislation, is a very small

matter compared with the total trade relations between our two countries. Certainly, the United States government has far more important things to occupy its time than to become exercised over a minor matter such as that with which this legislation deals. However, I do suggest that this question takes on unusual seriousness because, unfortunately, it is one more in a series of actions taken in recent years which have gone a long way toward undermining the good international relations which existed in earlier years between Canada and the United States. I know that that is disputed by some, but anyone who spends time in the United States, and who talks to Americans both in and out of government, knows that there is validity in what I have just said.

In any process of reasoning, the premise from which we start decides to a large extent the conclusions we arrive at. The premise from which I start to consider an issue of this nature is the firm conviction that Canada's best national interests are inseparably bound up with her relations with the United States.

If that premise is sound, any matter which involves the mutual interests of our two countries should be considered, not as an isolated matter, which by itself might not be very important, but in relation to the overall importance to Canada of our relations, particularly our trade relations, with our southern neighbour.

Canadians who give serious thought to this matter will agree that this country has an almost limitless potential to take advantage of innumerable opportunities to tap the goodwill of the United States to our own national advantage. There are hundreds of ways in which we can tap those resources of goodwill in matters of trade, technology, capital, and cultural achievements. Many of these benefits are available to us without cost as the dividends of mutual goodwill and of friendly negotiations and discussions with our good neighbour.

This is an aspect of Canada-United States relations which points up the folly of the negative nationalists in this country who seem incapable of distinguishing the difference between genuine Canadian nationhood and national sovereignty and nationalism based on negative attitudes directed against a neighbouring country from which we could reap such benefit if we concentrated on the potential opportunities and advantages available to us.

I would not quarrel with Bill C-58, even in the form in which it was submitted, if it had been introduced after a meaningful and genuine effort had been made to resolve the problem of border television stations by discussion with our counterparts in the United States whose interests are very much involved. Had such attempts been made and failed, we would have had a different set of circumstances.

It was quite clear from the evidence presented to the committee that no meaningful attempt was made by the government to sit down and discuss the problem constructively with American groups whose interests were involved, in a sincere effort to arrive at a mutually acceptable arrangement. The attitude of the minister when questioned on this point, and also that of the chairman of the CRTC, made this very clear. Members of the committee will recall that the chairman of the CRTC, when the point was being discussed, said that they had listened to the representations of concerned groups in the United States purely as a matter of courtesy. It was obvious that there was not the slightest intention to give serious consideration to the representations made, other than to give them a polite hearing because they had asked to be heard. I contend that this is not in Canada's best interests.

I would draw to the attention of honourable senators something to which I am sure many have already given thought. In the past two years there has been a development in the United States which has given a new dimension and added seriousness to matters which prejudice our relationship with the United States.

Since the events associated with Watergate there has been a move on the part of the United States Congress to take away a great deal of the latitude and power which for years was vested in the executive arm of the government in Washington. The present position is to require that many more matters be controlled by Congress and that Congress have an opportunity to examine all details, particularly in the field of international affairs, foreign trade and U.S. relations with other countries. As long as these matters were dealt with by the executive arm of government, we could assume that the White House would not pay much attention to complaints and grievances voiced by groups which felt that they had not been dealt with fairly by the Government of Canada in a way that a good neighbour nation rightly expects to be dealt with.

● (2050)

I suggest that these matters have now become, to a far greater degree, the subject of debate in the Congress of the United States, and that means that political reactions to Canadian treatment of U.S. interests are going to make themselves manifest. Groups in the United States who have been aggrieved by the negative approach that Canada so often takes are going to be vocal in expressing their dissatisfaction to their Congressmen, and when these matters come up in Congress for debate it is going to be a very different situation than when they were dealt with by the executive arm of the United States government. The results are far more likely to have repercussions detrimental to the best interests of this country.

The irritation this legislation has caused to two U.S. publications, one of which has been put out of Canada entirely, and the dispute with the U.S. border TV stations, are not of themselves big issues but if we keep on we will some day reach the point where there will be the final straw that will break the camel's back. Surely, it is folly on our part to permit anything like that to happen. In such an eventuality, the United States has very little to lose but Canada has a great deal to lose. I for one do not want to see Canada lose the great advantage that it has enjoyed and can continue to enjoy if we just use a little constructive common sense in the way we deal with matters of this kind.

The only other point I would mention—

Senator Davey: I wonder if I might ask the honourable senator a question? Would you apply the same criteria to the area of broadcast as you listed for print? In the earlier part of your speech, you listed the criteria for print, the criteria you would suggest for print. Would you apply the same criteria to the area of broadcast?

Senator Manning: I do not think the same criteria could be applied, because the U.S. border television stations are not incorporated in Canada. They are entirely U.S. entities.

Senator Davey: So you would not apply the same criteria?

Senator Manning: In the case of the border television stations, no. With them it is a matter of sitting down and working out something which is mutually acceptable to both countries. I do not think you can take care of that problem by Canadian incorporation, as you could do in the case of publications.

Senator Flynn: Would you?

Senator Davey: Yes.

Senator Manning: The other point I was going to make in closing is that in view of the lengthy hearings conducted by the Banking, Trade and Commerce Committee, and the large number of witnesses that were heard and the attention given to arrive at a constructive conclusion, I would hope this house would not lightly dismiss the recommendations of one of its own senior committees. Anybody who sat in on the committee hearings knows that its decisions were not arrived at quickly or lightly. This was a most exhaustive study. In fairness to the chairman and the members of the committee who worked with him in the preparation of the recommendations, this house should take into account that these recommendations are the end result of days and weeks of hearings and a great deal of careful thought and study, and as such should not be lightly cast aside.

Senator Forsey: Honourable senators, I wonder if the Honourable Senator Manning thought of concluding his address by suggesting that we all rise and sing The Star Spangled Banner.

Hon. Sidney L. Buckwold: Honourable senators, I also thank our colleague, Senator Lang, for providing this opportunity of saying a few words in this debate. I am a member of the Banking, Trade and Commerce Committee. Unfortunately, due to my responsibilities at Habitat, I was not present at all of that committee's meetings on Bill C-58.

While expressing, as I have always done, my fullest admiration for our capable chairman, I have to indicate that, although there are matters of concern in Bill C-58, had I had the opportunity of voting I would not have supported the amendments that have been brought forward, except for one that I consider important and which was drawn forcefully to the attention of this house in one of the great speeches we heard. I refer to the speech of Senator Cook, in which he talked about substantial Canadian content.

Before getting into that discussion, may I say that I am a little astounded by the fact that so many of the speakers in this debate commenced their comments by saying they support fully the principle of the bill, but—

Senator Flynn: No.

Senator Buckwold: That is what they said. We have heard it tonight, and we heard it in previous speeches on this bill.

Senator Flynn: The objective of the bill and the principle of the bill are not one and the same.

[Senator Davey.]

Senator Buckwold: What is the principle of the bill?

Senator Flynn: Yes.

Senator Buckwold: The principle of the bill is to be able to develop strong, viable, healthy, productive Canadian publishing industries and broadcast media.

Hon. Senators: Hear, hear!

Senator Flynn: That is not the principle.

Senator Buckwold: That is what the principle is.

Senator Flynn: That is the objective of the bill; not the principle.

Senator Buckwold: Is it not interesting, honourable senators, that as soon as anybody speaks in support of this bill, the heckling starts from the other side—the babbling. No one interrupted Senator Manning when he gave his thoughtful address. We sat and listened.

Senator Flynn: You could not.

Senator Asselin: He talked sense.

Senator Buckwold: Those who support the bill would like to have the opportunity of being able to say a few words without the babbling from the other side that we get rolling over here. I would certainly like that opportunity.

Let us talk about the principle of the bill.

Senator Flynn: Yes.

Senator Buckwold: Immediately people start shaking their heads. The fact is that if we agree with the principle of the bill—and everyone has said he does—then, as a government, we have to do something to protect an industry which, as all of us are aware, is in deep trouble. I am talking about the publishing industry in this country.

Senator Flynn: You are not the government. You are a member of the Senate.

Senator Buckwold: We have heard over and over again the problem of American influence on our country. We also hear about the other side of the coin, of course, which is the very close relationship of Canada with our good neighbour to the south. Again, I do not think anyone would dispute the comments that were made by Senator Manning as to how important that relationship is—

Senator Flynn: Senator Forsey did.

Senator Buckwold: —but I do not know whether the Government of the United States is of the view that we are ruffling the feathers of our great neighbour. *Time* Canada almost voluntarily moved out. It did so well in advance of the final passage of this bill.

There are some very serious problems with our relationship that I wish Senator Manning had raised, such as the takeover of the potash industry by the government of my home province. That is a serious matter. That is something that really disturbs Canada-United States relations. Another area of concern is our relationship in the gas and oil industries, and Senator Manning is well aware of the dependence of American industry in the northwest and north-central part of that country on gas and oil from his province. Yet, we have a strong feeling in this country that we should deny them some of God's blessings that we have. These are the things that are very serious.

I do not really believe the President of the United States is going to lose very much sleep because one major magazine is not going to get an exemption under the Income Tax Act in Canada, that magazine being *Time*. That is what we are looking at. We have had representations made by the Canadian publishing industry indicating that it cannot exist economically, or in any other way, without this legislation. They have said they cannot develop an indigenous publishing industry encompassing Canadian writers, Canadian photographs, Canadian print, without this legislation. I do not find that so difficult to believe—not if we agree with the principle which, as I say, everyone has indicated he agrees with. There is no blocking of magazines coming into this country. Senator Greene pointed that out. There is no iron curtain through which magazines cannot be brought in, as long as they are not declared unfit for human review, or obscene—and, goodness knows, plenty of those seem to sneak across the border. Magazines appear here by the millions every month—thousands of titles.

● (2100)

The only thing we are talking about is the right of Canadian advertisers to get income tax deduction. That is all we are talking about. I think a great smokescreen is being thrown around this whole situation by bringing in these diversions which, in my opinion, are not the true, basic principles about which we are talking.

I indicated at the beginning of my remarks that I was impressed by the speech of Senator Cook and some of the evidence I have heard about "substantial" Canadian content. There is no doubt in my mind that the ministers involved acted badly. I am the first to admit that. Senator Cook's point that Canadian courts had shown that the word "substantial" did not necessarily mean a majority was a good one. Yet a minister of the Canadian crown indicated that it could be 50 per cent; it could be 80 per cent.

I agree with Senator Hayden; I want to have an undertaking from the minister that that will be protected. I would not go so far as saying it should go to the courts. I will be satisfied if the minister gives an undertaking that a definite percentage will be written into the law so that we will not have ministerial fiat or a ruling by somebody, that we will really have rule by law. I believe that is what we all want. I am proud that Senator Hayden was able to bring that up, although I must say that I cannot go so far as he did in suggesting that the courts should do it. I think it can be corrected by an undertaking.

I would remind my fellow senators that we have had undertakings in the past. It has become an established custom of this chamber to accept undertakings from ministers that bills will be corrected in a suitable and satisfactory manner, rather than sending them back to the House of Commons and going through that procedure. This is a rather new development in the proceedings of the Senate. Many people ask why senators are not amending bills. The fact is that changes are very often developed first of all—as Senator Hayden so well knows, since I think he set the trend—by introducing amendments here long before bills are through the House of Commons, which amendments are passed on to the minister and appear in the form of ministerial amendments in the other place. We have this trend of ministerial undertakings. For example, the Honourable Mr. Benson gave a number of ministerial undertakings in respect of income tax law. I could go on and on in this regard. As Senator Hayden has said so well, these undertakings have been honoured, perhaps not to the full extent but certainly in their principal bases.

I suggest, honourable senators, that if we can satisfy ourselves on that one major point, the question of substantial content, if we can establish the principle that we do not want ministers to rule by directive, that we do not want administrators to rule by fiat, that we have laws that should be followed, then we should be satisfied with this bill which, as everyone agrees in principle, will develop the kind of magazine industry this country so sorely needs. Without this bill I think we can look forward to the demise of a healthy publishing industry in this country.

Senator Forsey: Demise?

Senator Buckwold: Yes, demise. I believe many of our major publications will disappear; they will just not be able to exist; they will go under. I suggest to you, honourable senators, that we have a very real responsibility in this regard. We have been talking about one publication, *Time* magazine, which is already out, so I do not really see that there is such a great problem in international relations.

With respect to broadcasting, I was impressed by the witness who appeared before the committee on behalf of the CRTC, its Chairman, Harry Boyle. I would ask you all to read his evidence, in which he dramatically pointed out the real importance of being able to control these dollars that are flowing across the border in the millions for advertisements that are televised back into large Canadian centres by stations that have no CRTC regulations to follow, no Canadian content rule which is expensive to obey, and are able to make substantial profits. That was well pointed out during the evidence. I believe that countries have a right to protect themselves against that.

It will be remembered that even in Great Britain, when there were offshore radio stations, there was a great uproar and the government had to do something about that kind of activity. It was almost a form of piracy. I am not suggesting this about our border TV stations on the American side. However, certainly they constitute an infringement of the rights of Canadians to be able to control where the advertising dollar goes, and I suggest that the proper way to do that is through the Income Tax Act.

We are not stopping anybody from advertising on the American stations. If they want to go to the Bellingham station they can continue to do so; they just will not get an income tax deduction for the expense of that advertising. It may be that the station will decrease its rates and the advertiser will find himself in the same position as before. That could happen. On the other hand, we know that in Vancouver there are stations just coming on the air that need this kind of legal protection to make their economic survival possible.

So I say to my fellow senators that we should be satisfied if we can get the undertaking to which I have referred. I am not talking of the other amendments. I think it is going too far to suggest that we want the other place to introduce a bill before the broadcasting regulations go

through, and that it be taken through the house and sent back to the Senate, so that we start the argument all over again. I really do not think that is necessary. If we can get an undertaking on the major point I have referred to I personally will support Bill C-58, and I hope my fellow senators will do the same.

On motion of Senator Lang, debate adjourned.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND (NO. 2)—SECOND READING

The Senate resumed from Wednesday, June 30, debate on the motion of Senator McDonald for second reading of Bill C-88, to amend the Canadian Wheat Board Act (No. 2).

Hon. Paul Yuzyk: Honourable senators, as could be expected, Senator McDonald has given a lucid and persuasive explanation of Bill C-88 in one of his shortest speeches in this chamber. His wide knowledge of farming in Saskatchewan, much of it based on lifelong experience in this industry, makes him a highly qualified sponsor of this bill. He deserves to be congratulated.

● (2110)

Although I was raised in the wheat province of Saskatchewan and worked on farms during harvest, and although I taught school in rural districts for eight years, I can claim only a very limited knowledge of grain farming based on an even more limited experience in that field. Nevertheless, I have learned much in my new capacity as agricultural critic in the Senate, and from my participation in the work of the Standing Senate Committee on Agriculture. The chairman, Senator Argue, and other members of this committee, particularly Senator Michaud, have been doing a fine job of promoting the broad interests of agriculture throughout Canada.

Tonight I draw the attention of the members of this chamber to a thorough, constructive study of a particular region in New Brunswick, entitled "Kent County can be Saved." This report is now being completed for publication this summer.

Honourable senators, at least I can say of myself that because I am not directly involved in agriculture I can approach from a detached point of view the many problems facing our farmers. That means, however, that I have to do much research. Indeed, I am happy that some of my suggestions in the past for improving legislation and reports in this field have been accepted, and accepted with thanks. As a matter of fact, I have received considerable encouragement from my friends on the government side as well as from my colleagues on the opposition side to carry on this not very easy task. It appears that I am fated to continue in this role until the Prime Minister appoints an agriculturalist in the opposition ranks of the Senate. Such a person is very sorely needed in this chamber, and I hope these remarks will catch the ear of the Prime Minister.

Bill C-88, as we have heard from the sponsor, purports to deal with two matters, the more important of which is the provision for new procedures in the election of the members of the advisory committee of the Canadian Wheat Board, while the second aspect of the legislation provides for the establishment of separate pools for selected types of grain within an identifiable grade—in particular, the malting barley pool. Neither of these items is particularly controversial.

[Senator Buckwold.]

The new feature of the Canadian Wheat Board is the election of the eleven-member advisory committee by the producers. Previously, the appointments were made by order in council, which will now automatically appoint the elected member to the board. As a matter of fact, the experiment of elected members is now in progress and has proven to be satisfactory both to the Canadian Wheat Board and to the farmers. The Wheat Board benefits from the views of the producers on a variety of matters, and is now in a better position to report back on these matters to the producers, although it is still essentially responsible for providing the best marketing expertise. Equally important is the role of the members of the advisory committee to inform the farmers about the activities of the Wheat Board and to discuss related matters in meetings with them, although this is not clear in the clauses of the bill.

This consultative process, according to information that I have received, is generally welcomed by most who are involved and concerned. However, although the process appears to be more democratic, it must be remembered that it is the Governor in Council who enacts all rules and regulations—which really means that it is the minister who actually has the control. It will take a very strong committee to change the mind of the minister in some instances.

The legislation makes no definite provision for the elected committee members to hold meetings or to report back to the permit holders and seek their opinion. Moreover, according to the legislation, the board shall call six meetings of the advisory committee annually, and no provision is made for extra meetings if urgent matters suddenly appear; nor is any power given to the committee to request a special meeting if an urgency should arise. I believe that some degree of autonomy should be granted to the advisory committee, otherwise the members might feel that they lack responsibility and can be frustrated, as a result of which they might subsequently become passive. I wonder if this can be rectified by regulation, when it is not mentioned specifically in the bill.

Strong criticism has been raised that this legislation does not explicitly provide for the election of producers to the advisory board. It is the producers who do the electing and in all probability they will elect one of their own. However, there are no restrictions on the qualifications of the candidates, and it is conceivable that a non-permit holder could be elected. Some fear that vested interests could exercise influence to get a non-producer elected who would then not have the best interests of the farmers at heart. Another possibility could be the election of 11 wheat producers—in other words, the whole committee—who could easily neglect the needs of oat and barley producers. However, it is argued that producers are generally well enlightened and would be conscious of the calibre of the candidates, so that if an elected member failed to serve their best interests he would not be re-elected. It is apparent that the minister will not yield on that point unless there is a strong demand made by the farmers, which at this time is not very evident.

This piece of legislation helps to correct a serious problem for barley farmers. In the February 1976 issue of

Grainews, published in Calgary, the overwhelming consequences of this problem are dramatically presented under the heading "Why Alberta barley growers are suing C.W.B." Here are pertinent extracts from the article:

> Last month, it was announced certain Alberta farmers were suing the Canadian Wheat Board, on behalf of all Alberta malting barley growers, for monies they claimed the Canadian Wheat Board owed them.
>
> If successful in establishing that the Board in fact were operating a separate malting barley pool, the plaintiffs in this action are hopeful that the Wheat Board will have to pay and distribute well over a hundred million dollars, representing the premium selling price received by the Board and not given to the producer.
>
> In addition, the plaintiffs believe tens of millions of dollars were wrongfully converted as a result of premiums being paid to people other than the producer and for premiums not even paid.
>
> What has really got the malting barley growers upset is the price they have been paid for their product. The Canadian Wheat Board has staked out authority over all malting barley in the country and although the Board has sold malting barley for up to $4.20 per bushel to maltsters, the growers of barley that went for malt have received as little as $2.18 per bushel for the barley grown in the same year.

● (2120)

> Indeed in some years the producer did not even receive the 15c. pittance paid by the maltster or exporter. Where the grain companies made up car lots from line barley, that is barley sold to the elevator company as feed barley, but recognized by the elevator operator as suitable for malting barley, the grain companies have received and kept even the 15c. premium.
>
> The Board claims it needs new authority from Parliament to create a separate pool for malting barley. The producers, however, claim the Board is required by the present Act to pool and pay on the basis of inherent quality. The Board, they point out, has already done this in the case of durum wheat and has arbitrarily refused to do so in the case of malting barley.

I do not know how far this case has progressed. Farmers in other provinces have also suffered and complained. To prevent such injustices and future court cases, Bill C-88 provides for a separate pool for malting barley. Such a pool would encourage farmers to raise malting barley that would meet the needs of maltsters. The increasing efforts applied by these farmers in the production of barley for specific selection would pay off very well, as feed barley would no longer be selected for malting purposes. We know that in the 1974-75 crop year over 18 million bushels of feed barley were bought up by malting houses, and that only some 274,000 bushels of malting barley have been selected from grain company stocks.

Under the new legislation I hope that the establishment of a malting barley pool will clearly differentiate malting barley from feed barley. It must have been most confusing when farmers discovered that malting companies, when they ran out of malting barley, chose millions of bushels of feed barley instead. I believe that maltsters should be required to buy their malting barley only from the Wheat Board, which should set the criteria for the selection and grading of malting barley. If this is not made compulsory, then grain companies, particularly the international ones, because of their superior marketing skills, could get to the farmers in advance and use the premium of about 80 cents a bushel as a rake-off profit, much to the disadvantage of co-ops and Canadian-owned grain companies. If maltsters are required to purchase their malting barley from the Canadian Wheat Board, it will give an equal opportunity to small farmers. Malting companies usually purchase large quantities from large farmers, leaving out the small producer. The Wheat Board is able to make a better distribution of sales, which would benefit all the producers in general.

Canada sells nearly $3 billion worth of grain on world markets, which greatly helps to improve our balance of trade. Grain farming is one of the few Canadian industries still not priced out of world markets and should, therefore, be maintained at a high level.

Bill C-88 helps to improve the quality and the productivity of the grain farmer. We on this side of the house endorse the principle of the bill. We think that this piece of legislation could stand some improvement, which no doubt can later be effected by regulations. The present crop year ends July 31 next. We consider it desirable to have the law applied to the present crop year to be of immediate benefit to our farmers.

There are many points which I believe need clarification. It would be useful to the members of the Agriculture Committee to have top departmental officials supply fuller information about the regulations, the election of members to the advisory committee, the grading of grain, the establishing of other grain pools, payments to producers, et cetera. I understand that Senator Argue is not entirely happy with some aspects of this legislation, but he can speak for himself.

I recommend that this bill be referred to committee.

Hon. Hazen Argue: Honourable senators, if I might add a few words in this debate, I would like to say that I agree with the statements that have been made about Senator McDonald's knowledge of the agricultural field and the expertise he has demonstrated once again in introducing an agricultural measure in this chamber.

Senator Yuzyk, let me hasten to add, has really come a long way as an expert—

Senator Grosart: Hear, hear.

Senator Argue: —in this house and in the country, and I congratulate him on the comprehension he has shown in this field, and the energy that he has demonstrated in working on behalf of agriculture in Canada. I think Senator Yuzyk is one of the ablest members of this chamber, and he continues to perform very outstanding service to Canada generally in the many fields in which he is active.

Since we are passing compliments around, let me say how happy I am that the minister responsible for the Wheat Board has already, in practice, put into effect a large section of this bill by seeing to it that the advisory committee to the Canadian Wheat Board was elected. The minister responsible for the Canadian Wheat Board, who is

also the Minister of Transport, gets into controversies once in a while in various sections of the country. He has been criticized in parts of eastern Canada for certain actions, as he has been over the years, and is still criticized in western Canada for certain actions. In providing in this measure, however, for the election of the advisory committee to the Canadian Wheat Board I think he has the general support and approval of western Canada, and of grain producers in particular. I think it is an excellent thing that the farmers themselves, by electing this advisory committee, will have a role to play in the policies of the Canadian Wheat Board.

It is important that this legislation not be delayed, or not unduly delayed. This bill needs to become the law of the country by August 1 of this year so that the provisions for malting barley and any other grains that may come forward can be put into effect. They have to be in effect by August 1 because that is the beginning of the crop year.

Senator Grosart: We'll still be here!

Senator Argue: We will still be here, and this will be the law, so I am not suggesting that we cannot take our time and do a good job. We have enough time left to do that.

The question of a malting barley pool is not new to the Senate, nor is it new to the Standing Senate Committee on Agriculture. It is just over a year since the Agriculture Committee itself recommended the establishment of a barley pool. Senator Hays, I think, was the leading promoter of the barley pool in the committee as he has promoted it in other places. I am not saying how large a role we played in the action taken by the government, but we were on the right wavelength. We recognized that this was something that should be done, and more than a year ago we made a recommendation which, of course, we are pleased to see the government making the law of this country by legislative action.

Senator Yuzyk said that I am not really too happy with certain provisions of this bill. In fact, I am happy with the provisions of the bill, but I am not certain that they will be used as effectively or as extensively as they might.

● (2130)

There is still the question of whether it is practical to have a system of protein grades for wheat established in such a way that the individual farmer who produces a high protein quality wheat can himself be certain of receiving the precise rate for his wheat that the Wheat Board in fact would pay. The Wheat Board gets the benefit, and the country gets the benefit, of the higher protein wheat, but it is not true to say that there is any direct flow of the premium from protein wheat to the actual farmer who produces it, but that is a completely different subject, and it is something that the members of the Agriculture Committee can question the officials about if the bill is referred to that committee.

If we have officials from the department before the committee, I should also like to find out something more than I now know about No. 5 durum wheat because there is a big spread in the return that the farmer receives as between No. 4 and No. 5, and I am not at all certain from my own experience and from the experience of others that the farmer in fact gets the correct grade for No. 5 durum. But that is something I can pursue at a later time.

[Senator Argue.]

Honourable senators, I am pleased that this measure is before the house. I think it is constructive and timely, and I am sure it will receive the full support of this chamber, as it received the full support of the other place, and I am pleased to add my voice in support of second reading.

Hon. Harry Hays: Honourable senators, I should like to make a few remarks about the bill. Of course, I support the bill, but my great concern at the moment is its timing. I discussed bringing forward this legislation with the Minister of Agriculture, with the parliamentary secretary to Mr. Lang, and I even spoke less than two weeks ago to the Prime Minister. I have received more mail and telephone calls on whether we would have a malting barley pool than I received on the question of capital punishment. That may seem rather far out, but it is a fact.

The difference between growing malting barley and feed barley in financial terms can range anywhere from $3,000 to $30,000. For instance, if you grow Galt barley which is a feed barley, it yields anywhere from 10 to 15 per cent more bushels per acre than, say, Betsy or Bonanza which are malting barleys. It is my understanding, and I think I am correct about this, that it is the maltsters who select the barley. They are the people who decide whether they are going to take your barley or not, and we do not have many people who make this decision. They have to make it through the supplier of the barley.

For instance, United Grain Growers, who have elevators throughout western Canada like the Alberta Wheat Pool and the Saskatchewan Wheat Pool, collect the barley, and when Canada Malting want a carload of malting barley they go to United Grain Growers and say, "We want a carload of Bonanza," or perhaps Betsy or Hector barley—one of the malting barleys. Now it may be that a farmer will have 10,000 bushels of Betsy barley, and they only want to take one or two carloads. This barley has been a very costly one for him. If there is not a special pool he could have sold his barley for $2.80 a bushel at one time, and today the price of barley has dropped by about 75 cents a bushel, while the maltsters are paying anywhere between $3 and $3.50 a bushel. So if he goes into the whole feed pool, as it has been in previous years, he would probably receive only 15 cents a bushel for a variety of barley of which he could have grown 15 or 20 per cent more.

It is very important to these people to make a decision all through the year, because the ministry circulated all the farmers through their agricultural letters that we were going to have a malting pool, and so these people held this barley from last August 1 until now to see if they could get it into the malting pool. This was a special barley that could also have been used for feed barley, so my great concern is—and I have pointed this out to the chairman of the committee—that if we send this bill to committee we must be sure that it goes through, because if the house were to rise and this bill did not receive royal assent before July 31, all these people would have their barley going into a general pool. I think this is a question that should be of great concern to the Senate.

I hope, honourable senators, that if this bill goes to committee, we shall be able to deal with it tomorrow and expedite it, so as to have it passed by Thursday.

Senator Argue: Honourable senators, I am happy to do anything I can as chairman of the Agriculture Committee

to expedite the passage of this bill. In anticipation of its being sent to committee I have booked a room for Thursday morning at 10 o'clock. I would think, from the way the Senate operates, it is just as expeditious to have it before the committee at 10 o'clock on Thursday morning as on Wednesday afternoon. So the wheels are in motion, and I am sure the Senate is not going to prevent the farmers from getting a malting grade of barley this year.

Hon. A. Hamilton McDonald: Honourable senators—

The Hon. the Speaker: I must inform the Senate that if Senator McDonald speaks now his speech will have the effect of closing the debate on second reading of this bill.

Senator McDonald: Honourable senators, there is only one comment I want to make, and Senator Hays has really answered part of the question that came to my mind having heard other speakers speaking on this particular bill. The point I want to make is that, so far as malting barley is concerned, you can buy a particular variety of barley that under normal conditions makes good malting barley, but that does not necessarily mean you are going to sell it as malting barley. The only people who can make that decision are the maltsters, and nobody has a malting barley until the maltster says, "I want a carload of that barley." It is only then that you have malting barley.

Senator Yuzyk, I believe, came to the conclusion that no longer would No. 1 feed barley qualify for malting barley. But there is the possibility that it could, because there are occasions in Canada when, because of the weather or other conditions, we do not have enough good malting barley to fill the demand, and then the maltsters start taking a lower quality barley, because they have to have barley to produce malt. So it is not quite true to say that No. 1 feed barley is not going to qualify in the future; it may qualify if there is not enough good barley in Canada to meet our domestic requirements. But the point I wanted to make is that it is the maltsters who make the decision whether you have malting barley or whether you have not.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Senator McDonald moved that the bill be referred to the Standing Senate Committee on Agriculture.

Motion agreed to.

● (2140)

MEDICAL CARE ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Denis, P.C., seconded by the Honourable Senator Bourget, P.C., for the second reading of the Bill C-68, intituled: "An Act to amend the Medical Care Act".—(*Honourable Senator Smith (Colchester)*).

Senator Smith (Colchester): Honourable senators, I suspect—

Hon. Senators: Hear, hear!

Senator Smith (Colchester): I appreciate the applause very much, but perhaps it was only in anticipation that I intend to suggest that the Senate might prefer to allow this order to stand because, unlike Mark Antony, I did come prepared to speak and am quite prepared to do so but am not sure that senators are prepared to stay and listen to me.

Senator Langlois: We are prepared to stay and listen.

Senator Smith (Colchester): I ask that this order stand.

Order stands.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the report of the Standing Joint Committee on Regulations and other Statutory Instruments, which was presented on June 30.

Senator Forsey moved that the report be adopted.

He said: Honourable senators, I move that the Senate concur in this report, which I think is self-explanatory. It merely provides for the committee to keep up with the flow of statutory instruments during the summer so that we shall not have a large backlog when we get back in the fall.

Motion agreed to and report adopted.

TRANSPORTATION

BRITISH NORTH AMERICA ACT—MOTION TO REFER SUBJECT MATTER TO TRANSPORT AND COMMUNICATIONS COMMITTEE—DEBATE CONTINUED

The Senate resumed from Thursday, June 17, the debate on the inquiry of Senator Bonnell calling the attention of the Senate to the British North America Act as it pertains to transportation.

Hon. A. Hamilton McDonald: Honourable senators will recall that when I moved the adjournment of this debate I did so for two reasons. First, I wished to have the opportunity to peruse the British North America Act to see if there was any reference in it about transportation in Saskatchewan or the Prairie region. I find that there is not; there is no reference to transportation in the British North America Act. Between 1903 and 1961 six royal commissions concerned themselves with transportation in the Prairie region. None of the reports of those commissions referred to the British North America Act in any respect as far as transportation is concerned. At the moment two commissions are studying transportation for the Prairie region—the Hall Commission under Mr. Justice Hall and the Stavely Commission. Those two commissions have held numerous hearings in western Canada. They have much public support, and it is my view that it would be wrong for the Senate to involve itself in transportation problems when these two commissions are studying transportation matters in the Prairie region. We all hope that their reports will be acceptable to those who make their livelihood in that area, and that their recommendations will be such that the Government of Canada can implement them.

Senator Molgat: Would Senator McDonald reply to a question? Has he any idea as to when these two commissions will report?

Senator McDonald: No, I do not know.

Senator Forsey: May I ask the Honourable Senator McDonald whether he feels it is altogether fair to the Atlantic provinces that we should have to wait until these commissions report at some unknown date in the future? After all, the motion before us would not have any bearing upon the affairs, the inquiries of those commissions into this matter in the Prairie provinces.

Senator McDonald: No, honourable senators. I have no desire to hold up this particular inquiry for any reason. As I said at the outset, I wished to have the opportunity to see if there was any reference in the British North America Act to transportation in the Prairie provinces. From information I have gathered, there is not, and I have no desire to hold this matter up.

On motion of Senator Petten, debate adjourned.

AGRICULTURE

COMMITTEE AUTHORIZED TO PUBLISH AND DISTRIBUTE ITS REPORT ON KENT COUNTY, NEW BRUNSWICK

Senator Argue, Chairman of the Standing Senate Committee on Agriculture, moved:

> That the Standing Senate Committee on Agriculture be authorized to publish and distribute its report on Kent County, New Brunswick, as soon as it becomes available, even though the Senate may not then be sitting.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, July 7, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault: Honourable senators, I have the honour to table:

> Copies of Framework Agreement for Commercial and Economic Co-operation between Canada and the European Communities. Done at Ottawa, July 6, 1976.

In the spirit of co-operation which pervades the chamber, I am pleased to comply with the request of the Honourable the Leader of the Opposition and table:

> Copies of a letter to Mr. Roger Demers, President, l'Association des Gens de l'Air du Québec from the Minister of Transport, dated July 1, 1976 respecting bilingual air traffic services in Quebec.
>
> Copies of a letter to the Minister of Transport from the three Commissioners appointed for the purpose of inquiring into the safety of the introduction of bilingual IFR Air Traffic Services in the Province of Quebec, dated July 6, 1976.
>
> Report of the Farm Credit Corporation, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Senator Flynn: Honourable senators, perhaps the letters tabled by the Leader of the Government, those being the letters to the Minister of Transport from the commissioners regarding air control and the letter of the minister to Mr. Demers, President of l'Association des Gens de l'Air du Québec, could be printed as an appendix to today's *Debates of the Senate.*

Senator Perrault: There is no objection to that procedure, honourable senators.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

(*For text of letters, see appendix, p. 2352*)

ADJOURNMENT

Senator Langlois: Honourable senators, I move, seconded by Senator Perrault, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until tomorrow, Thursday, July 8, 1976, at 11 o'clock in the forenoon.

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

Hon. Senators: Agreed.

Motion agreed to.

BUSINESS OF THE SENATE

WEDNESDAY SITTINGS—ORDER OF MAY 6 RESCINDED

Senator Langlois: Honourable senators, with leave of the Senate and notwithstanding rule 47(2), I move:

> That the Order of the Senate of May 6, 1976, that until the Senate adjourns for the summer recess, the Senate shall adjourn at three thirty o'clock in the afternoon on Wednesdays, be rescinded.

Senator Flynn: Definitely.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Flynn: Step by step.

Motion agreed to.

WORK SCHEDULE FOR PRESENT WEEK

Senator Rowe: Honourable senators, I wonder if I might direct a question to the Leader of the Government. I appreciate the difficulty under which he might be labouring right now, but is he in a position to give us any further details as to the work schedule for the present week.

I am sure the leader appreciates that with the tourist season in full swing it is becoming increasingly difficult to make arrangements for air travel. Many senators, including myself, have reservations for Thursday evening. Is it likely that we will have to cancel those reservations in favour of some other day?

I appreciate that it might be difficult for the government leader to give us that information now.

Senator Perrault: Honourable senators, Senator Rowe's inquiry is appropriate and timely. This session, of course, has gone beyond the original estimate of the government.

Senator Flynn: Ho, ho.

Senator Perrault: The other chamber is occupied with the debate on Bill C-84, the important issue of capital punishment. I rather think it unlikely that that bill will come to us from the other place before at least Thursday of next week. It may be the government's intention in this place, provided the present work responsibility before us is met, to adjourn for a time with, of course, the house being subject to recall when Bill C-84 reaches the Senate. However, it really depends on how the present work is disposed of this week. We have before us, as honourable senators are aware, four bills which do not appear to be too onerous or too difficult, although one is never, of course, quite certain in parliamentary affairs how long debates will be prolonged.

As I have said, at this time it is impossible to estimate when the bill presently under discussion in the other place will be here. We do not know. There are a number of amendments to be considered. I understand there are at least 15 or 16 amendments that must be dealt with in some form or another. The latest estimate I have is that it will not leave the other place before Thursday of next week, and there may be nothing for this chamber to do next week.

Senator Rowe: May I infer from that that we are likely to adjourn tomorrow afternoon as a matter of routine, or later?

Senator Perrault: Tomorrow afternoon, if the four bills are dealt with by then.

Senator Flynn: I think that estimate is a bit too arithmetic. The question is whether we will have completed the work on the bills before us.

Senator Perrault: That is what I said.

Senator Flynn: Or not.

Senator Perrault: That is what I said.

Senator Flynn: If we adjourn tomorrow, that will be in keeping with the normal practice. We should adjourn tomorrow whether or not we have completed the work before the Senate. We are not going to sit on Friday merely because Bill C-58 or Bill C-20, or whatever you like, is not completed. It would be normal to adjourn tomorrow, as we usually do, and come back next week if these bills are not dealt with, and then face the situation created by Bill C-84, which is an entirely different matter. I think the Leader of the Government should be able to give us the assurance that we will adjourn, as we normally do, on Thursday, tomorrow.

Senator Perrault: I want to assure honourable senators that we do not anticipate the need to employ extraordinary procedures to accelerate the work in this chamber. It may well be that we shall be back next week. There is no question about that. I simply suggest that if through some fortuitous circumstances, through the concise nature of certain contributions to debate in this chamber, we find ourselves in a position to adjourn tomorrow afternoon, or even Friday morning, if that be the case, there may be an opportunity to recess for a brief period of time until Bill C-84, the capital punishment bill, arrives.

Senator Flynn: That answer is not clear enough. I suggest that until we know about Bill C-84 we should deal with the business now before this house in the normal way, which is to adjourn tomorrow and come back on Tuesday. That is what I suggest. We should then know where we stand.

Senator Perrault: In any case, members of the Senate will meet fully their responsabilities.

Senator Flynn: It is not a question of meeting our responsibilities. It is a question of knowing when we are going to have to meet our responsibilities.

Senator Grosart: Would the Leader of the Government indicate the bills he seems to think require full implementation before we recess for whatever time it may be?

[Senator Perrault.]

Senator Perrault: Honourable senators, I will undertake to provide a report for the Senate about legislation which it is anticipated Parliament should deal with before the adjournment, or before prorogation.

● (1410)

Senator Grosart: That was not my question. My question was: What are the bills which, in the judgment of the Leader of the Government, would require a final disposition before the Senate might recess awaiting Bill C-84?

Senator Perrault: It would be our hope to dispose of Bill C-20, respecting citizenship; Bill C-58, to amend the Income Tax Act; Bill C-68, to amend the Medical Care Act; and Bill C-88, to amend the Canadian Wheat Board Act (No. 2).

Senator Grosart: Is there any great urgency in the passage of any of those bills?

Senator Perrault: We regard them as important pieces of legislation. The government always adopts that view.

CITIZENSHIP BILL

THIRD READING—MOTION IN AMENDMENT—ORDER STANDS UNTIL LATER THIS DAY

On the Order:

> Resuming the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator Macnaughton, P.C., for the third reading of the Bill C-20, intituled: "An Act respecting citizenship", and
>
> On the motion in amendment thereto of the Honourable Senator Macdonald, seconded by the Honourable Senator Grosart, that the bill be not now read the third time but that it be referred back to the Standing Senate Committee on Foreign Affairs for consideration of the implications of section 33.—(*Honourable Senator Perrault, P.C.*).

Senator Perrault: Stand until later this day.

Senator Flynn: At this point will the leader permit me to make an observation about what I said yesterday? I should like to give credit to Senator Goldenberg for pointing out to me that yesterday I overlooked subclause (7) of clause 33 which indicates that certain provisions of clause 33 are to "come into force in any province only upon a day fixed in a proclamation of the Governor in Council declaring those subsections to be in force in that province."

I had overlooked that provision because usually when there is a difference in the time of coming into force of the various subsections of an act, that information is conveyed in the last section of the act. Therefore, I wish to make clear now that my question is not on that point but is merely on the question of whether the minister would undertake not to bring in clause 33 before obtaining an opinion from the Supreme Court upon a reference as to its validity and constitutionality. My question, then, is not on the interpretation of clause 43, dealing with the coming into force of the act. I just wanted to clarify that point.

Senator Perrault: Honourable senators, the reason I propose that we stand the bill until later this day is that I have not yet had the opportunity to speak to the Minister

of Justice about the question raised by the honourable senator, although I have made the request to do so. It is just that I have not established contact yet. Although we hope to do so at any moment, I am simply unable to give the Leader of the Opposition an answer at the moment.

Senator Flynn: I was just trying to simplify the answer to be given by the Leader of the Government.

Senator Perrault: Thank you.

Order stands.

INCOME TAX ACT

BILL TO AMEND—REPORT REFERRED BACK TO COMMITTEE

On the Order:

Resuming the debate on the motion of the Honourable Senator Hayden, seconded by the Honourable Senator Bourget, P.C., for the adoption of the Report of the Standing Senate Committee on Banking, Trade and Commerce on the Bill C-58, intituled: "An Act to amend the Income Tax Act".—(*Honourable Senator Lang*).

Senator Lang: Honourable senators, I seem to be in an uncharacteristically yielding mood these days, and I ask your indulgence to yield once again this afternoon to any other honourable senator who may wish to speak on this motion.

Senator Walker: What is going on?

Senator Perrault: Honourable senators,—

Senator Flynn: He knows!

Senator Perrault: I rise to make only a few brief remarks. While in a rather restricted sense the question is before us as to acceptance or rejection of the very conscientious report of the Standing Senate Committee on Banking, Trade and Commerce on the subject of Bill C-58, surely the question goes beyond that. We are concerned with developing in Parliament the best legislation that can possibly be developed on this important subject. It is gratifying to note that in the report there is great support for the principle of this bill by all those who have been associated with its debate and consideration. I want to assure honourable senators that since the introduction of this report on June 22 by the distinguished Chairman of the Standing Senate Committee on Banking, Trade and Commerce, very careful consideration has been given to its recommendations by the government. All senators have read this report with a great deal of interest. Without question, it contains a number of good ideas. Since June 22, as a number of senators are aware, there have been several useful and constructive conversations and discussions with respect to the views, suggestions and proposed amendments contained in the report.

So much so, that at this time I would like to make a proposal to the Senate, and I shall do so in the form of a motion. It is put forward in the hope that there can be further useful meetings and conversations concerning the bill and that there can be meetings of the Standing Senate Committee on Banking, Trade and Commerce between now and the next time we meet, hopefully to achieve final resolution of some of the problems raised by the committee report. I want to indicate that the government is in a responsive mood with respect to some of these matters.

Honourable senators, I therefore move, seconded by the Honourable Senator George McIlraith, that the report be not now adopted but that it be referred back to the Standing Senate Committee on Banking, Trade and Commerce for further consideration and report.

Hon. Senators: Hear, hear!

Senator Hicks: Honourable senators, if we are not giving any instructions to the committee—

Senator Flynn: Wait a moment, please. The motion has not yet been put.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Hayden, seconded by the Honourable Senator Bourget, that this report be now adopted.

In amendment it is moved by the Honourable Senator Perrault, seconded by the Honourable Senator McIlraith, that the report be not now adopted but that it be referred back to the Standing Senate Committee on Banking, Trade and Commerce for further consideration and report.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Senator Hicks: Honourable senators, we are not referring this back with any instructions. Is there any hope that the Standing Senate Committee on Banking, Trade and Commerce may make changes in their report that will render the submission more acceptable to the house? Is there any further explanation that the Leader of the Government or the committee chairman can give to us on the subject?

Senator Flynn: Honourable senators, I do not accept the suggestion made by Senator Hicks that the report might be made more acceptable to the house, because the house has not made any decision on it as yet.

Senator Hicks: Fair enough. I was making certain inferences.

Senator Flynn: Yes, indeed. You have not spoken in this debate yet, but you just now succeeded in making your position quite clear. I think you side with Senator Davey, Senator Austin, and Senator Greene in saying that the report should be simply dismissed.

Senator Smith (Colchester): I do not think so.

Senator Hicks: I do not take that position at all.

Senator Flynn: I think you do, and if Senator Austin wants to explain his position further, I do not mind. I am willing to yield to him if he wants to explain.

Senator Austin: If Senator Flynn would read my contribution in the *Debates of the Senate* on June 30, he would understand that I was not prepared to support the report, but at the same time I was not prepared to support Bill C-58 unconditionally.

Senator Flynn: That is an impossible position, I would suggest.

Senator Walker: Who cares?

Senator Flynn: In any event, what I wanted to draw to the attention of the Senate is the fact that since the

government is willing to compromise, or to listen, that is a good thing, and I think it is in contrast with the positions taken by Senator Davey, Senator Greene and, possibly, to some extent, though I cannot reconcile his two viewpoints, by Senator Austin too.

Motion in amendment agreed to, on division.

● (1420)

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting today, and that rule 76(4) be suspended in relation there to.

The Hon. the Speaker: Honourable senators have heard the motion. Is there unanimous consent?

Hon. Senators: Agreed.

Senator Grosart: Is the Senate sitting tonight?

Senator Langlois: There is a possibility. But it is for today at any rate.

Senator McIlraith: I wonder if the proposer of this motion would consider including tomorrow in case it becomes necessary for the committee to sit tomorrow morning while the Senate is sitting.

Senator Langlois: Honourable senators, in this respect I have checked with the chairman of the committee, and it is proposed, if necessary, that the committee will sit early tomorrow morning before the 11 o'clock meeting scheduled for the Senate.

Senator Flynn: Are we to understand that a meeting will be called for 8 o'clock this evening?

Senator Langlois: No, but at 5 o'clock this afternoon, and we might still be in session at that time. On the other hand we might have adjourned at that time. I don't know.

Senator Flynn: Then we get no dinner.

Senator Langlois: Well, it won't be the first time.

Motion agreed to.

MEDICAL CARE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

The Senate resumed from yesterday the debate on the motion of Senator Denis for the second reading of Bill C-68, to amend the Medical Care Act.

Hon. George I. Smith: Honourable senators, so that there may be no doubt on which side of this bill I stand, because of the indefinite kind of my remarks, I want to make it clear now that I propose to vote against it. So if I leave any indecision in honourable senators' minds, or if I seem to do so, I would ask them to remember that I have declared my intention at this stage.

I am also mindful of the admonition of, I think it was, the Honourable Deputy Leader of the Government in the Senate that the length of speeches might have something to do with the length of time required to attend to all the business of the house. While I recognize the merit of that admonition, I do have to say that at the moment, at least, I do not feel able to give full effect to it because there are some things that are so full of inherent evil that they cannot be dismissed in a moment's talk.

What I want to say revolves around the proposition that this bill is inherently wrong, is an incredible reversal of a firm and longstanding commitment made to the provinces and the people of Canada, and is indeed a shameful piece of legislation to have before us. I should like to refer for a moment to the present act, the Medical Care Act, which is Chapter M-8 of the Revised Statutes of Canada 1970, and which first appeared in the Statutes of 1966-67 as chapter 64.

Of course, as stated in Bill C-68 itself, the purpose of this legislation is to amend a portion of the Medical Care Act which deals with the amount of the federal contribution to the provinces. Bill C-68 falls, so far as I can see, into two parts. First, the part which is concerned with how much of the total approved cost of the Medical Care Act has to be provided and paid by the Government of Canada, the taxpayers of Canada. Second, the part dealing with certain procedures and principles to be followed with reference to new insured services, with which for the purpose of my remarks I do not intend to deal at any length.

The part which deals with the share that the federal government purports to fix, and would fix if passed, ceilings on the federal payments, introducing an absolutely new concept into an old, well-established and well-understood plan.

Before proceeding to the specific provisions of the plan, I think it would be helpful to take a look for a moment at the history which preceded this bill and which preceded the introduction of the Medical Care Act. In 1965 at a federal-provincial conference the then Prime Minister, the Right Honourable Lester B. Pearson, announced to the conference that the federal government had resolved to provide federal financial support for provincially administered medical plans and indicated that the federal government would be encouraging provinces to put such plans in place. He then pledged and made no reservations about it whatever—anyone in doubt of this may refer to the proceedings of that conference—that the federal government would pay 50 per cent of the cost of the approved medical services provided provincial plans met four basic principles, which he then enumerated. They should be comprehensive and provide a comprehensive scale of medical services. They should be universal; that is, they should cover the great majority of the population of the province—at one time the figure mentioned was 90 per cent. The plans should be administered by a public organization rather than by a private insurance carrier or some other private organization. The plans should be portable.

This, as I say, was in 1965. In 1966, almost exactly 10 years ago, on July 12, 1966, the then Minister of National Health and Welfare, the Honourable Allan MacEachen, introduced the usual resolution concerning the Medical Care bill, which was the proposed bill at that time. He made a speech in support of that resolution. As reported at

page 7544 of the House of Commons *Hansard* of July 12, 1966, Mr. MacEachen said:

> I am proud, Mr. Chairman, to be the pilot of this new measure, which will extend the benefits now available beyond the doors of the hospital, ensuring the availability of physicians' services whether these be provided in the doctor's office or in the patient's home. As hon. members know, the federal government has for some years been examining ways and means of ensuring that the opportunity for good health which is now viewed in western democracies as a right possessed by all should be available to every citizen of our country. This effort springs not only from a deepening of our humanitarian concern for our fellow citizens, but from a realization that we cannot afford the social and economic consequences of our failure to do so.

● (1430)

At the following page, 7545, Mr. MacEachen said:

> The Government of Canada believes that all Canadians should be able to obtain health services of high quality according to their need for such services and irrespective of their ability to pay. And we believe the only practical and effective way of doing this is through a universal prepaid, government sponsored scheme . . .
>
> The federal government's proposal, as hon. members know, is to offer the provinces a sizable sum of money to support provincial medical care insurance programs which meet certain established standards.

And he enumerated the standards, which are those I attributed to the Prime Minister in his statement at the federal-provincial conference the preceding year. He goes on, at page 7546, to say:

> At the same time not all of the provinces have the same fiscal capability of providing such programs or of meeting the costs of programs designed for all residents. Thus, although Canada is one country a Canadian resident of one province may be at a distinct disadvantage when compared with a Canadian resident of another province . . .
>
> Thus while it is the policy of this government to redefine its role in so far as conditional grant programs are concerned—

He is talking about a long-standing program of grants.

> —it may not abrogate its obligation to ensure the national character of our country by establishing an acceptable level of services available to all citizens. It is proposed, therefore, that with the full cooperation of the provinces the federal government will support medical care programs which meet the four basic principles . . .
>
> From the national point of view it is also essential to ensure that there is no differentiation in coverage between the residents of one province and another if federal funds are to be provided.

And here are words of commitment with reference to finances, which appear at page 7548 of *Hansard* of July 12.

> Where provinces bring in medical care programs meeting these principles then the federal government, under the proposed bill, would accept fiscal responsibility for a contribution equal to one half of the present per capita cost of insured services in those provinces participating in the plan.

I repeat.

> —the federal government . . . would accept fiscal responsibility for a contribution equal to one half of the present per capita cost of insured services in those provinces participating in the plan.

He then closes with some glowing words.

> The introduction of this resolution, Mr. Chairman, I believe marks an historic day for this parliament and for Canada. The program it spells out goes a long way toward closing the gap in our over-all social security system. It is our hope it will result in the commencement of provincial medical care plans covering all Canadians on the 100th birthday of Confederation, July 1, 1967. This would be a most appropriate way to mark our birthday, since it would ensure ready access to medical care to all of our people, regardless of means, of pre-existing conditions, of age, or other circumstances which may have barred such access in the past.

Senator Sullivan: May I ask the honourable senator a question? Has he the glowing words used by the Honourable John Robarts at the time of that federal-provincial conference in 1966 in regard to this plan?

Senator Smith (Colchester): No; I do not think I have the precise words.

Senator Sullivan: Would you like to hear them?

Senator Smith (Colchester): I was present and heard Premier Robarts deliver himself of some very vigorous sentiments, which, as I recall, had the general effect of a prophecy that while this sounded pretty good, it looked to him as though it might turn out to be one of the greatest frauds perpetrated on the people of Canada in all time. Those were not his precise words—

Senator Flynn: Are you satisfied with that, Senator Sullivan?

Senator Sullivan: If the honourable senator would like to hear the exact quotation, I shall be pleased to tell him.

Senator Smith (Colchester): Why certainly. I yield to the honourable senator.

Senator Sullivan: The Honourable John Robarts said at that conference, "Gentlemen, this is the greatest Machiavellian fraud ever perpetrated upon the people of Canada and rammed down the throats of the provinces."

Senator Smith (Colchester): My memory stood me in better stead than I thought it would. Let us proceed to the next step in history, so far as the records of Parliament go. Let us look at the speech of the Honourable Mr. MacEachen as Minister of National Health and Welfare on October 13, 1966, at page 8610 of *Hansard* of that year. He said he was pleased to move the second reading of the bill:

> In the interim since this bill was presented for second reading members will have had an opportunity to study its provisions carefully and, I am sure, constructively. The medical care bill is a short but significant piece of legislation. It has only nine clauses and in this respect is identical with the Hospital Insurance and

> Diagnostic Services Act passed by this parliament in 1956. I mention this parallel simply to show that good things may come in small packages, for surely we have all lived very happily with our hospital insurance legislation and I doubt that any member of the house would want to see it dismantled.

He speaks about the four principles I mentioned, and then, beginning at page 8611, he said:

> It was with the cost of physicians' services in mind that the section in the bill dealing with the calculation of the federal contribution was drawn up. This federal contribution will be equal to 50 per cent of the national per capita cost of insured services incurred by the province for the year—

Meaning every succeeding year.

> —multiplied by the average for the year of the number of insured persons.

I repeat his words.

> This federal contribution will be equal to 50 per cent of the national per capita cost of insured services incurred by the province for the year, multiplied by the average for the year of the number of insured persons.

So there we have—

An Hon. Senator: Nothing!

Senator Smith (Colchester): Perhaps Senator Hicks will be able to deliver his views on my speech in such a valuable and useful way that all members of the Senate will be able to listen to them. We then have, as the culmination of this glowing account of what the provinces could expect from the Medical Care Bill, the fact that the Medical Care Act was passed into law. Section 3 of the present chapter M-8 of the Revised Statutes of Canada, 1970, reads as follows:

> A contribution is payable by Canada to each province in accordance with this Act, calculated for each year in respect of the cost of insured services incurred by the province in the year pursuant to a medical care insurance plan of the province.

Then we proceed to section 5(1), which reads:

> The amount of the contribution payable by Canada to a province for a year in respect of a medical care insurance plan of the province is an amount, as determined by the Minister on the basis of information furnished as required by this Act, equal to 50% of
>
> (a) the per capita cost for the year of all insured services furnished pursuant to medical care insurance plans of participating provinces
>
> multiplied by
>
> (b) the average for the year of the number of insured persons in the province at the end of each month in the year.

● (1440)

Throughout the whole period of time this matter was the subject of discussion between the provinces and the federal government, and debate in Parliament, to the final enactment of the bill, emphasis was placed on the payment by the federal government of 50 per cent of the approved costs of the plan to each of the provinces. Nowhere is there a scintilla of evidence that the federal government during that period was hedging its promise. These were clear-cut statements. I have read them and I have provided honourable senators with the appropriate references. If anyone has any doubt about it, I invite an examination of those references and any others that can be found.

It is clear that the 50 per cent provision was not merely a casual commitment made in a lighthearted moment, but a solemn promise made by the then Prime Minister to the provinces gathered in conference, repeated by the Minister of National Health and Welfare in speaking to the resolution, repeated again by that minister in speaking in the debate on the motion for the second reading of the Medical Care Bill, and then solemnized by the Parliament of Canada in the Medical Care Act, and acted upon by all concerned to this very day.

There it is, honourable senators—a solemn promise made to the provinces to induce them to set up medicare plans under the conditions contained in the Medical Care Act, acted upon by them in good faith, and acted upon by the Government of Canada in what appeared to be a manner consistent with good faith up to a certain time, and that certain time was not so very long ago. That time was June 23, 1975, when the then Minister of Finance of Canada introduced his budget and unilaterally, without any agreement with the provinces, stated, as reported at pages 7026 and 7027 of the *House of Commons Debates* of that date:

> A second measure aimed at more effective cost control involves the establishment of a ceiling on the yearly rise in the contributions the federal government makes to the provinces under the Medical Care Act. Since provincial administrations will need some time to adjust their planning, this ceiling will be made effective for 1976 and subsequent years. More specifically a ceiling will be placed on the per capita rate of growth of federal contributions to provinces. This ceiling will be 13 per cent in 1976-77, 10½ per cent in 1977-78 and 8½ per cent in 1978-79 and subsequent years.

There was a declaration that the solemn promise used to induce the provinces to enter into this plan, acted upon by them and by the Government of Canada, was to be departed from. In part of his speech, the then minister made reference to consultations which had been held between the federal government and the provincial governments on the question of controlling costs under the Hospital Insurance Act. But in his speech, as I read it, I can find no suggestion that there were any discussions or consultations with the provinces in respect of the Medical Care Act and any change in the legislation relating to it.

It will not be surprising, I am sure, to any honourable senator whose memory recalls the events which followed that budget, that this met with a storm of disapproval from the provinces. In a few moments, with permission of the house, I will give some examples thereof.

I would ask honourable senators to think for a moment of the speech of the present Minister of National Health and Welfare on the motion for the second reading of the bill which we have before us, which took place on January 28, 1976, in the other place, as reported in *House of Commons Debates* at page 10408. He made some reference to consultations which had taken place, as I read his speech,

after Mr. Turner's budget and after the introduction of this bill, which took place on July 8, 1975. It was introduced by the Honourable Mitchell Sharp on behalf of the Minister of National Health and Welfare.

After making reference to various problems relating to the control of costs and consultations he had had with the provinces since the budget and since the bill had been introduced in July of 1975, he said he would propose three amendments to the bill as it was introduced. The first amendment that he would propose to the committee, if it got that far, was that a specific ceiling be included in the bill for only the years 1976-77 and 1977-78, and after that the ceiling would be set by order in council. Some people may view that as an improvement, but I view it as a most reprehensible way of deciding anything so important as this.

He went on to say that he would also propose that federal payments for any new services which might be approved, if any ever were, would go only to the provinces in which these new services were provided, and that a third amendment would be that if any of these new insurance services were approved there would be a 36-month exemption in respect thereof from the ceilings as imposed.

A moment ago, in answer to a question from Senator Sullivan, I recalled as best I could the comments of the Premier of Ontario at the time in question. I would also like to draw attention to the statement of the then Treasurer of Ontario, the Honourable Charles S. Macnaughton, to the federal-provincial meeting of finance ministers held in November 1968, at which time he asked:

> What guarantee have we that in a few years from now, the federal government will not dump the full responsibility for this programme on the provinces, and close off or limit its contributions after it has obliged the provinces to embark on its slippery slope?

Honourable senators, how right he was to be thus concerned, and how right time is proving his concern to be. We have a federal government which persuaded the provinces to embark on a program of medicare on the promise that the federal government would pay 50 per cent of the costs. Now the provinces are in and, as the minister phrases it, the plan has reached its maturity. Now that their resources are committed, the same government welshes on its promises and unilaterally proposes to set a ceiling on its share.

Senator Flynn: Shame!

Senator Smith (Colchester): I say, again, how right he was. The rest of us trusted the word of the federal government of that time. The then Treasurer of the Province of Ontario apparently had a keener vision of its regard for a promise. I venture to say that all of the provinces, and most Canadians, will look with a jaundiced eye on further promises of this government, and I venture the assertion, too, that this kind of unilateral activity, this unilateral backing out on a promise, has done a great deal of harm to the relations between the Government of Canada and the governments of the provinces—harm to the very important field of relations between the federal and provincial governments, harm to the people of Canada, not only as Canadian taxpayers but as provincial and municipal taxpayers, and harm which will far outweigh any possible saving the federal government might hope to realize in its own treasury from this most invidious action.

● (1450)

I said a moment ago that I would, with leave of the Senate, give some indication of the comments of the provinces when they learned of this unilateral declaration of the Minister of Finance on June 23, 1975. Manitoba, through its Minister of Health and Social Development in a communication to the government, said in part:

> Your government's decision to proceed with major changes on a unilateral basis is a serious disappointment to our province and, I assume, to most others . . . Not only does the decision represent an apparent breach of our earlier understanding . . . but also, and more importantly, it suggests that your Government has every intention of implementing the legislative changes which will cause the primary responsibility for the future reform of health care and for the maintenance of existing service standards to be borne by the provincial governments and their taxpayers.

Quebec, on June 25, in a telegram to the Government of Canada, or one of its ministers, said:

> First of all, I deplore the unilateral—

Listen to that word, "unilateral".

> —ceiling put on medical insurance by the federal government without warning . . . One must make the distinction between an economic measure favouring the Quebec taxpayer and an economic measure destined to advantage nothing but the federal treasury—the statement by [your] Government belongs to this second category.

Nova Scotia, in a letter written to a private member of Parliament, without disclosing any breach of privacy, said:

> In summary, we regret that the Government used the Budget speech to advise the provinces of the limitations, but as mentioned above, Nova Scotia is willing to meet with Ottawa to discuss the limits on medical insurance and new arrangements on hospital insurance.

Ontario, on July 24, as reported in an interview with the Toronto *Star*, said:

> But the feds have been talking with the provinces for three years and all their proposals amount to is their opting out.

Or, as stated in the Ontario legislature on June 24, 1975, by the Minister of Health:

> Now, if I have ever seen any example of unilateral—

Note that word again.

> —decision-making without consultation with the provinces, that is it.

Saskatchewan, in an address made to the Victoria conference of health ministers on August 18, 1975, said:

> The Government of Saskatchewan deplores the unilateral decision of the federal government . . . I consider these decisions of the federal government high-handed and insensitive. We . . . also believe that [in the past] we have been misled by the federal government.

New Brunswick said, through the Minister of Health in a letter to a member of Parliament dated July 18, 1975:

> One sincerely regrets the actions of the federal government and the far-reaching deleterious effect that will obviously occur in Provincial-Federal relationships.

Honourable senators, I mentioned the conference of provincial ministers of health held in Victoria on, I think it was, August 18 and 19, 1975. I cannot at the moment lay my hands on it but, in any event, the general thrust of its comment was exactly the same as, in summary, were the comments of the various provinces I have just read to you. If in due course I find this quotation I will ask you to give me time to read it to you.

In the meantime, I should like now to turn to the speech—which at least had the merit of being brief, and I am sure I cannot claim that merit for mine—made by the sponsor of the bill, Senator Denis, in the Senate on June 30 this year, reported in *Hansard* at page 2317. He did not make many points, but he did make the following which I wish to mention: consultation; a reference to the substantial amendment; the allegation that the present situation is a blank cheque to the provinces; the suggestion that the federal government wants to be a full partner in this plan; and some remark about holding down excessive increases in salaries.

On the question of consultation, I should like to emphasize that there are many kinds of consultation. Some of them are good, and some of them are useless. A consultation, in any true sense, is not simply going to somebody, or some group of people, and saying, "This is what I am going to do". A consultation in any true and useful sense is a discussion with the people who are interested in the subject you want to discuss, and who will have an opportunity to contribute whatever they are able to contribute to the various factors worthy of consideration before a final decision is made.

I suggest, first, that before the budget and before this bill was introduced in July 1975, there was no consultation of any useful kind whatsoever. You will note the use in almost all of the comments I read to you from the provinces of the word "unilateral." "Unilateral" simply implies that there was no consultation involved in the subject in hand.

Honourable senators, I have now found the extract from the comments of the provincial health ministers at the Victoria conference on August 18 and 19, 1975. This was said at the close of the conference:

> Health Ministers agreed (d) on the need to control rapidly escalating health costs . . . Negotiations on health cost sharing, which have been under way for some time—

A reference primarily to hospital insurance.

> —and which were progressing well, have been undermined by this arbitrary decision. The Ministers call(ed) on the federal government to continue discussions on more acceptable financial arrangements with the provinces and to withdraw its proposed amendment to the federal Medicare Act (Bill C-68.)

Senator Hicks: When was this?

Senator Smith (Colchester): This was at the provincial health ministers' conference on August 18 and 19, 1975, at Victoria. The ministers apparently also agreed on the following statement:

> The Ministers also agree(d) that further technical meetings of officials to discuss cost-sharing matters are inappropriate until agreement in principle has been reached on the basis of sharing health costs.
>
> The Ministers also felt strongly that bilateral meetings (such as Mr. Lalonde has proposed for the months of September-October) are not an acceptable substitute for full and open discussion of an issue of such national importance.

It is my understanding—and this can be verified by examining reports relating to the conference—that these were all agreed upon by the provinces after being initially put forward by British Columbia.

● (1500)

Some discussions have been going on at the federal-provincial conference of health ministers just a few hundred yards from here. They started yesterday. As I understand it the conference was supposed to continue for two days, but—

Senator Croll: Do you mean the finance ministers?

Senator Smith (Colchester): Yes, you are quite right. Thank you for the correction, Senator Croll.

Senator Flynn: He is always correct.

Senator Smith (Colchester): He certainly was that time, anyway.

Senator Flynn: Good for him.

Senator Smith (Colchester): I would not suggest that because it was an exception it was more noticeable.

Some Hon. Senators: Hear, hear!

Senator Smith (Colchester): Well, I am not sure just what has happened at this conference, but one of the somewhat unusual features of our system of federal government is that quite a bit of law-making is carried on behind closed doors at these federal-provincial conferences—conferences which sometimes have the most far-reaching consequences to our country, to our citizens and to our taxpayers, but which altogether bypass the members of Parliament. I have participated in a good many of those conferences myself, and I am still not sure whether they are right or wrong, but they seem to be an inevitable characteristic of our federal-provincial relations as we now know them.

But I would take it that all that has happened since Mr. Turner's budget—the introduction of this bill in July a year ago, the conference of health ministers at Victoria last August and the consultations which must have gone on since—has not been able to alleviate very much the fears and resentments of the provinces.

I have before me this morning's issue of a paper which I know is not universally beloved in this house but which is rather well known as one of the more widely read newspapers in Canada. In today's issue is the headline: "Provinces opposed to federal proposal on sharing revenue." The lead paragraph in the article says:

> It was the poor provinces against the rich but all the provinces together against Ottawa yesterday at the federal-provincial finance ministers' conference.

Senator Croll: What is the newspaper?

Senator Smith (Colchester): I thought everyone would recognize it by the description. It is the *Globe and Mail*. It carries the address "Toronto" on the front page, and I am sure Senator Croll is familiar with it. I did indicate that I recognize that it is not universally popular among members of this house.

Senator Sullivan: Or any house.

Senator Smith (Colchester): However, I have also before me a page from today's issue of another well known paper published in this city, the *Citizen*, which deals with this same conference. The headline has at the top in rather small print, "Finance ministers' session," and under that in pretty large print, "Provinces not pleased with federal proposals." Then the two lead paragraphs go on as follows:

> Finance Minister Donald Macdonald Tuesday spelled out federal proposals for changing the major financing agreements it shares with the provinces, but won little support from provincial finance ministers meeting here.

Here is the sentence that indicates the great displeasure that the ministers felt with the federal proposals:

> The ministers cut short their planned two-day conference and went home complaining that the federal proposals may mean higher taxes, reduced standards of service for health and education, or both, for some of the provinces.

Now, honourable senators, when we come to talk of consultations with the provinces with reference to this bill, I suggest that the kind of consultation that took place was obviously not the kind of consultation that could have the least effect in persuading the provinces that their rights were being reasonably regarded. It was not the kind of consultation that would give them an opportunity to make a real input into the consideration of the problem before the decisions were made, and even after the lapse of a year it has not been sufficient to persuade them that they are being treated fairly. So I have to say that as far as I am concerned, any suggestion that any kind of proper consultation took place with the provinces or with the medical profession, which also asked at one stage at least that this bill be withdrawn, is not acceptable. That kind of suggestion is simply not acceptable, and cannot be accepted by anyone who has really taken any opportunity to find out what the facts really are.

One can say beyond the slightest fear of being proved to be wrong that any allegation made in support of this bill that it is pursuant to meaningful consultations with the provinces cannot possibly be supported by the facts, and cannot possibly be used as an argument by any legislator or by any member of the Senate contemplating the reasons which merit his support of this bill.

When the honourable sponsor of this bill also said that by this substantial amendment ceilings would not be contained in the bill except for the present fiscal year and the next fiscal year, and that after that they would be determined by order in council, he was simply leading us out of the frying pan and into a very hot fire. I don't want ceilings. I think they are contrary to every fair and reasonable consideration on which the provinces entered into this plan. But if we have to have ceilings then, by all means, let them be imposed, but let them be imposed by the members of Parliament. Let them not be left to order in council. They are too fundamental, too important, too substantial to be left to what may be decided by an order in council two years from now, three years from now or four years from now. To my mind, if there has to be a ceiling, then by all means put it in the bill, but do not leave it in the hands of the people whose conduct I have been complaining about all along today.

Some Hon. Senators: Hear, hear.

Senator Smith (Colchester): It is true that there is a provision in the bill that an order in council may be brought before the other place for discussion if 50 members thereof sign a petition asking that that be done, and that if a motion in response thereto is passed by the house it can be submitted to this house and, if passed by this house, be fulfilled either to cancel the ceilings or to change them to some other ceilings. But what good is that? That is merely a sop thrown to those who believe that such things as this should not be done by order in council. Does anybody seriously think that the government of the day, during the debate on a petition signed by 50 members of Parliament, will see its own order in council changed? It will apply the whip. It will see to it that its majority ensures it has its way, whatever party it may be in 1978-79—and I am sure it will not be the present one.

Some Hon. Senators: Hear, hear.

Senator Smith (Colchester): Even that great improvement does not move me to think that government by order in council is good government.

● (1510)

Senator Croll: You practised it.

Senator Smith (Colchester): I am sorry, Senator Croll; I shall be glad to deal with your question, if it was one.

Senator Lamontagne: You deserve another four years.

Senator Smith (Colchester): It might take the people of Canada another year to change things, but it looks pretty inevitable.

The honourable senator also, putting before the house something that somebody had placed before him, I suppose, said that the present system is just giving the provinces a blank cheque to do what they like about costs of medicare. I say not only that this assertion is completely incorrect, but that it is an extremely unfair statement. After all, the provinces have to find their 50 per cent or, in the case of the poorer provinces, because of the way the formula works, not quite 50 per cent. They have just as hard a struggle finding their 50 per cent as the federal government does, and they have to spend a good deal of time on that struggle. I know what the provinces have to go through in this regard, and I say that the suggestion that there is a blank cheque for the provinces, that there is no incentive for them to help cut down costs, is completely and utterly unjustified and completely and utterly unfair.

There was also an assertion in the speech that of course the federal government wants to be a full partner. One thing the bill does is to ensure that they will not be if certain eventualities happen. They are full partners now, but the whole object of this bill is to make sure they are

not full partners, if the increase in costs exceeds the rates as set out in the bill.

Senator Flynn: That is right.

Senator Smith (Colchester): So this statement is obviously seen, when you look at the bill itself, to be one that is completely contrary to the principle of the bill.

Honourable senators, you have been very patient with me.

Hon. Senators: Hear, hear!

Senator Flynn: You have been extremely convincing.

Senator Smith (Colchester): I appreciate your agreement with my statement, of course, but if the applause that occurred indicated the hope that it might cut short my remarks, I am afraid I might disappoint you.

Senator Flynn: Of course. More, more!

Senator Lamontagne: We can sit tonight.

Senator Smith (Colchester): Yes, and perhaps go on tomorrow as well.

Honourable senators, it is clear that the provinces were angry about this bill not only from the time of Mr. Turner's budget to the time the bill was introduced, but that they are still angry about it. Even if the bill stood alone, as I have said, it would indeed be a source of serious damage to federal-provincial relations. However, it does not stand alone. We all know that. All you have to do is look at what was published as being the matters discussed at the federal-provincial conference, which evidently did not live as long as was anticipated.

This government is doing the same thing in a number of fields. It has given notice to terminate the health insurance agreement with the provinces. It has unilaterally made a decision to change the system of payment of the amounts, as I understand it, for the moment at least, and is doing so to the detriment of the provinces, in respect of their contributions to post-secondary education. They are going back on their guarantee to the provinces against loss to them because of the so-called reform of the Income Tax Act. And of course, which is something that is very fresh in everybody's mind, they have introduced a wage and price control system after winning an election on a promise not to do so. Who, therefore, can blame the provinces, or the people of Canada, if they are angry and unhappy with, and distrustful of, the present government? They certainly have every reason to feel that way.

This bill is a manifestation of how far the government has departed from the rules of fair play, of how it has become dedicated to government by confrontation, government by unilateral decision, and government as its fancy moves it.

I thank you again for listening to me. I have to declare, in case there is any doubt left, that I propose to vote against the bill.

On motion of Senator Phillips, debate adjourned.

AIR TRANSPORTATION

OFFICIAL LANGUAGES ACT—LANGUAGE RIGHTS OF AIR PILOTS IN PROVINCE OF QUEBEC—DEBATE ADJOURNED

Hon. Maurice Lamontagne moved, pursuant to notice:

[Senator Smith (Colchester).]

> That the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.

He said: Honourable senators, I intend to speak only in English today, because I wish to make a special appeal to my English-speaking colleagues. I want to invite them to join with me and other French-speaking senators in a collective and unanimous reassertion of our faith in a bilingual Canada as defined in the Official Languages Act.

The adoption of this motion would not mean that we support all aspects of the government program in this area. I myself have some reservations about certain features of that program. I feel, however, that this is not the time to discuss them.

When the Leader of the Opposition spoke in this chamber on July 9, 1969, almost exactly seven years ago, on the day when the bill dealing with official languages was unanimously approved by the Senate, he said:

● (1520)

> We must not expect too much of this bill; it will not solve all the problems that the most optimistic are hoping it will. Nevertheless, I believe the bill represents a step forward that it was absolutely necessary to take.

The current crisis—

Senator Flynn: Would the honourable senator permit a question at this stage? I am moved by the fact that he is quoting me, but as I told him, because he was kind enough to let me know in advance about his motion, I do not see the relevance of the wording to the real problem with which we are faced, and with which he wants to deal. So I wonder if he would not agree to stand the question until we can have some discussion as to the wording of his motion in order to relate it precisely to the problem so that it will not end up as vague as I consider it to be at this time. I am willing to discuss this matter, but under the terms the senator is proposing I have serious reservations.

Senator Lamontagne: Well, honourable senators, the motion has now been put and I am prepared to speak to it. If the Leader of the Opposition or any other member of this house has suggestions as to ways and means of amending the motion which would be acceptable to me and to others, then I would be quite prepared to accept such amendment, but I do not think I should delay what I have to say this afternoon on the motion as it stands.

Senator Flynn: But the honourable senator realizes that his speech may make it more difficult to get a wording which will carry unanimous approval.

Senator Lamontagne: We will see once I have concluded my remarks.

Senator Flynn: The usual flexibility of the honourable senator!

Senator Lamontagne: I am very sorry, honourable senators, that Senator Flynn has chosen to take this kind of attitude this afternoon. This certainly was not my approach to the problem. I took care to communicate with

him in Quebec City yesterday morning, and I had another discussion with him yesterday afternoon. It is my construction, at least, that he agreed to the text of the motion when we met yesterday afternoon, and he is now putting the wording of the motion in doubt at this late stage. I think I should be allowed to continue my remarks.

Senator Flynn: On a point of privilege, honourable senators, it is true that we had some meetings yesterday, but the honourable senator will acknowledge that this afternoon before we entered the house I suggested to him that he might postpone this motion in order to have further discussions as to the wording, and he said, "No, take it or leave it." So I think I can put my dissent as to the wording on record at this point.

Senator Lamontagne: I certainly intend at this moment, as it is my right as a member of this chamber—

Senator Flynn: It is your right certainly, but I was trying to find out whether you had achieved a little more flexibility than you used to have in the past.

Senator Lamontagne: I think that if the honourable senator is patient enough to wait for the end of my remarks he will find I am flexible enough, and I would certainly be in a position even after I have completed my remarks to entertain modifications of the motion.

Senator Flynn: I did not want to be told that afterwards.

Senator Croll: That is the price of sitting over there—you are always told afterwards.

Senator Flynn: And I know why Senator Croll always wants to be on the side of the majority.

Senator Croll: The comfortable majority.

Senator Lamontagne: Having quoted what the Leader of the Opposition said in 1969, honourable senators, I want to add that the current crisis shows how right and realistic Senator Flynn was seven years ago.

Senator Flynn: And I am still.

Senator Lamontagne: Which does not mean that he is today.

Today a great number of Canadians, both English-speaking and French-speaking, have the impression that the spirit and principles embodied in the Official Languages Act have been abandoned, or at least seriously weakened. The House of Commons and the government under present conditions can do very little to remove that impression. The Senate, however, is completely free to reaffirm its full support of the act, and I believe that the current situation justifies such a move. If this motion is adopted, Canadians will know that the Senate, at least—this chamber of sober second thought, as we so often say—still fully supports the ideal of a bilingual Canada as envisaged in the act.

The other part of the motion, honourable senators, deals with the dispute over the language of air control in the province of Quebec. I decided to raise this issue partly after reading the excellent article which appeared last Friday in the *Gazette*. The article stated as follows:

> A number of associations, French and English, have been busy leaping to conclusions and passing resolutions these past few days, then firing them off to Ottawa . . . In a country of two intermeshing linguistic communities it is a rudimentary principle that cooperation between the two to settle their differences cannot be limited to federal government channels.

This "leave it to the government" attitude is not good enough. I believe that the dispute has reached such proportions as to require the involvement of Parliament, of the Senate more particularly, because of its historical mission with respect to minority and provincial rights. The *Gazette's* editorial also states:

> The dispute over the language of air control has been characterized by jockeying for position, rather than cool consideration of the merits of the issue, from the beginning.

As far as I am concerned, I want to concentrate as objectively as possible on the merits of the issue, and in so doing I will use a background paper entitled "Bilingual Air Traffic Services" which was sent to all members of Parliament by the Ministry of Transport on June 22. First, I intend to deal briefly with the situation existing in other countries with respect to the language of air control. The regulations of the International Civil Aviation Organization contain two main recommendations in this respect. The first one reads as follows:

> In general, the air-ground radiotelephony communications should be conducted in the language normally used by the station on the ground.

The second recommendation states:

> Pending the development and adoption of a more suitable form of speech for universal use in aeronautical radiotelephony communications, the English language should be used as such and should be available, on request from any aircraft station unable to comply with 5.2.1.1.1, at all stations on the ground serving designated airports and routes used by international air services.

● (1530)

Accordingly, many countries, including France, Italy, Spain, Belgium, Switzerland, Japan, Norway, Eastern Europe and most countries of South America, normally use their national languages but make English available to meet the needs of international operations. To my knowledge there has never been any complaint about those air control systems, and our own Canadian pilots have accepted those conditions without raising the safety issue.

In Canada, the Civil Aeronautics Branch of the Department of Transport is responsible for determining air safety standards, including the language of air control. Its personnel is widely recognized for their great expertise. It has at its disposal an air traffic control simulation centre which is supposed to be one of the best and most sophisticated of its type in the world. It is also claimed that certified air safety standards in Canada are more strict than those of most other countries. Under such conditions, and as an individual who is also vitally interested in his own safety as well as that of others, I have full confidence in the normal procedure which has been applied up to now in Canada for the certification of air safety standards, including regulations regarding the language or languages of air control. I strongly believe that this normal procedure should continue to apply in the future without any undue outside interference, political or otherwise. I just want to

add that I wish I had the same confidence in our safety standards regarding the use and disposition of nuclear material.

The Aeronautics Act does not specifically prescribe the use of either English or French, but until 1962 English only was used in Canada. In 1962, the Department of Transport issued a directive authorizing pilots to use French in the province of Quebec in situations of stress and emergency provided that the gist of those communications be repeated in English. Thus the use of French has been authorized in those situations since 1962, not as a political concession but as a measure designed to improve air safety.

Since June 1974, the Minister of Transport has authorized the use of French in addition to English in the provision of airport control service to aircraft operating in accordance with the visual flight rules at five airports—Quebec City, St. Jean, Baie Comeau, Sept Iles and St. Honoré. During those two years of bilingual service, no evidence of unsafe incidents resulting from misunderstanding of either official language has been validated. Since last spring, bilingual aeradio advisory services have been available throughout the province of Quebec. In the last few weeks, bilingual airport control services to aircraft operating in accordance with the visual flight rules have been extended to Val d'Or and Bagotville.

What remains to be decided is whether or not to provide fully bilingual airport control services in Quebec—that is to authorize the use of French in addition to English in visual flight rules to Dorval, Mirabel and St. Hubert, and to extend that practice to instrument flight rules throughout the province. These last steps will present more complex problems requiring extensive study. It has been estimated that the simulation experiments begun last March and designed to consider those problems may take 15 to 18 months before they are completed. It appears to me, however, in the light of well-established international practices, that fully bilingual services in Quebec can be supplied within the framework of normal safety requirements, provided they are introduced gradually and in cooperation with all those concerned. I am also under the impression that if English-speaking Canadian pilots can operate efficiently in other countries under the existing regulations recommended by the International Civil Aviation Organization, they will be able to operate as efficiently in Quebec under the same conditions. However, my impression can be wrong.

That is why I make a plea to all those concerned, which includes all Canadians, to keep a cool and rational attitude and to suspend their final judgment until the simulation and other technical studies have been properly carried out. In making that plea I do not intend, and my motion is not intended, to interfere in any way with the work being undertaken by the commission established by the Minister of Transport.

The solution of the technical difficulties involved in the introduction of the new bilingual services is only part of the story. The human element, the willingness to make the system work, is also very important. This is why I hope that the members of the Association des Gens de l'Air du Québec will be patient, in spite of present difficult circumstances, and will participate actively and constructively in the simulation and other technical studies which have been initiated. I also hope that the members of CATCA and CALPA will do the same, and participate in those studies in a truly professional manner and as good Canadians.

I wish to say to all those groups that they should always bear in mind that they have very important responsibilities which go much beyond their respective interests, their feelings and what they may consider rightly or wrongly to be their rights. Air safety depends not only on their competence but also on their daily and friendly cooperation. The cold war now existing between those groups and their members represents in my view a serious air hazard in itself which should concern all Canadians, and which should be removed immediately.

● (1540)

To achieve this most important objective, I propose that a formula should be found to enable the antagonists to meet as human beings and good citizens on mutually aceptable grounds, under the auspices of an appropriate Senate committee if desirable, to negotiate at least a viable truce until the simulation and other technical studies have been completed.

According to many people, English-French relations in Canada are presently in a state of crisis. It is not the first time that this has happened in our history, and I am sure it will not be the last. But, as the *Gazette*'s editorial says:

> It might be an idea to look around the world and see if there is some nation whose particular problems one would sooner share than Canada's.

Some Canadians on both sides believe that if Quebec were to separate, our problems and conflicts would go away. This is not true. Geography and economics will never allow us to ignore each other. Indeed, the separation of Quebec could make some of these problems and conflicts even more acute than they are within Confederation.

We have to learn, therefore, to live together and to overcome crises when they arise in a rational way, so that there will not be any victors and vanquished. So far as I am concerned, I am against French power and English power. I am for Canadian power, which can rest only on balance, compromise and the active participation of our two main founding communities and the other ethnic groups who have joined us in the course of Canadian history.

We must always be aware of the fact that feelings and emotions, if allowed to prevail between ethnic groups, will divide us, as they so often do in other areas of human relations. Only the voice of reason will unite us in our best mutual interests. This is the voice that will be expressed in this house and hopefully will be heard throughout the country if this motion is adopted.

Hon. David Walker: Honourable senators, as you all know, I have a great admiration for the ability of my friend who has just spoken, but I think that what we have in front of us today is a problem which is fundamental.

Before saying anything further, I should point out that I agree with him that whatever we do should be done in the spirit of conscious logic, with no emotion one way or the other. I hope that I shall express myself in that way, because I appreciate very much the position taken by my honourable friend and what he has in mind.

At the present time we have—although it might not have suited my friend—a solution to this problem. At least, we have the machinery for a solution. I did not set it up. The Conservative Party was not consulted about setting it up. Perhaps my friend, who is no longer in the cabinet, was not consulted, but certainly the Leader of the Government was. The solution was that this whole thing should be adjudicated by a commission of three very distinguished men. They were picked, apparently, to the satisfaction of the minister and the representatives of the pilots and controllers. That is set out clearly at page 14926 of the *House of Commons Debates* of June 28, in the memorandum of understanding, signed voluntarily by all three parties.

It might not suit my friend, and it might not suit us on this side of the house because we were not consulted. It might not suit also those on the other side of the house; but there is a memorandum of agreement, of understanding, between the Minister of Transport, the Canadian Air Traffic Control Association and the Canadian Air Line Pilots' Association. I quote from paragraph 2:

> That a prerequisite to the expansion or introduction of any bilingual air traffic service—

That is what my friend is talking about.

> —be a unanimous report of the Commission declaring the proposed expansion or introduction to be consistent with the maintenance of current safety standards in Canadian air operations.

We did not do this. They decided that it should be done, and it was approved by the federal cabinet and, I am sure, the Prime Minister.

I must not for a moment attempt to take any side in this controversy. To do so would be ridiculous and I would be completely out of order until we have the report. I would ask the Deputy Leader of the Government to listen to what I have to say, because I cannot hear myself think. He is still talking.

Here is the proposition. What else can we do at the present time except await the report of the three commissioners? What else can we possibly do? Is it within the power of the Senate, or if it is within the power of the Senate—my friend is an authority on these things—is it within the common sense functions of the Senate, to step in at this time with a resolution which, if it were carried, would be advice to the three commissioners? And I am sure it would be the hope of my friend that they would act on it.

In court and out of court, in arbitration and out of arbitration, we always wait to see what happens. If my friend is then dissatisfied with the result of the three-man commission, and with its report, and he thinks that in his judgment a resolution should be brought before the Senate, then that will be the time to do so—but not until then. I say that with the greatest of friendliness towards my friend. I am not speaking politically for one party or the other. Why would we not wait? What advantage is there to place on record either the defeat or success of this motion? Surely it does not come at a proper time, and my friend might not have brought it forward had he been in the cabinet. However, he was not in the cabinet at the time. The Leader of the Government was. They, in their wisdom, have found the solution and they have agreed to it. There is no way that I know of to get out of it. I suppose an act of Parliament could set aside an agreement—Parliament can do anything—but I do not think anyone would want to see that done.

Let us give this thing a chance. I do not want to be legal. Could we not say that this motion, coming at a time when the commission is going to meet, and when passions have already been inflamed, is *sub judice*? In other words, further discussion and further attempts to influence are being made. We have already heard a good deal about influencing. The Leader of the Government heard quite a lot about it when the judges were being importuned from time to time as to what they should do.

● (1550)

Coming to the present case, why should the Senate, the upper house, do what the lower house would not do? There may at some later point be a motion brought forward in the lower house, but why should we try to interfere now with the proper judicial discretion that has been given to these three commissioners?

The motion before the Senate is as follows:

> That the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.

Are we not trying to substitute something else? Surely we are. Are we not trying to give a reply for the commissioners instead of leaving it to the commissioners to bring in their report?

I hope no senator on the other side will suspect for a moment that I have any political motives in making these remarks. This may in fact do me a lot of harm, because passion is inflamed across Canada and in Quebec, as my friend and I agree, as we have never seen it before. In the days when I was studying French in the province of Quebec, around 1928, there was said to be quite a separatist movement. But they never discussed that with me. They were great hosts at all times, and we all had a very happy time.

Why would we, as a Senate, pass such a resolution as this at the present time? There can only be one motive, and that is to motivate the commissioners to bring in a report favourable to the government. That is how the commissioners would certainly view such a resolution, I would think, and certainly that is how it would be thought of by the public. This, my friend, is not the time for such a resolution. The time may come when you can move such a resolution, but to interfere with the course of justice—not that we set up but that your own government, for whom you have always been a loyal supporter, set up—to set aside the judicial process set in motion would be a gross interference. To illustrate my point, if a judge took a resolution such as this before the commissioners he would be in a very difficult position. Simply because we are the first house, the senior house, does not make our passing such a resolution as this any less incorrect.

I am trying to use moderate words, words that will enlist the moderate support, the reasonable support, of all the members of the Senate, regardless of political affiliation.

My friend, I know, does not profess to be a lawyer. He is very lucky. He is one person in this house who does not profess to be a lawyer but who always acts with the great authority of certain of the lawyers that we know so well, and I admire him for that.

To sum it all up—and there is much authority for what I have said—we are out of place. This motion at this time is extremely out of place. Not only is it out of place, but it is almost unethical. I am not suggesting that my friend is unethical. The motion itself is unethical. Whether you like it or not—and I am directing my remarks particularly to members of the government—whether it is a good commission or whether it is not, the government has set it up. Surely we can depend on the wisdom of those three judges, surely we can depend on their good judgment and their good wisdom to bring in a just result.

If my friend is not satisfied with the report, he can go so far as introducing legislation to remedy it. It may be, of course, that my friend has introduced this motion to placate the ill feeling that emanates from Quebec. I can assure him that such a resolution as this, if passed by this house, would inflame passion from one end of Canada to the other, with the exception of the province of Quebec. I beg of my friend to withdraw this resolution rather than having it voted on and, if so, a count taken, which would only upset the apple cart, just when the Liberal government of Mr. Trudeau has got it level. The commission, as established, should be given the opportunity of investigating the concerns that my honourable and learned friend has raised.

Senator Lamontagne: May I ask a question?

Senator Flynn: You may ask a question, but I want to move the adjournment of the debate.

Senator Walker: I would be delighted if you asked me a question.

Senator Flynn: Many questions have been raised by Senator Walker. It was a speech, and you will have an opportunity of replying to it.

Senator Lamontagne: Am I not allowed to ask a question?

Senator Flynn: Oh, yes, you can do so if you wish.

Senator Walker: I would welcome your question. I do not think my leader would mind.

Senator Flynn: I would mind, I think. I move the adjournment of the debate.

On motion of Senator Flynn, debate adjourned.

CITIZENSHIP BILL

THIRD READING

The Senate resumed from earlier this day the debate on the motion in amendment of Senator Macdonald to the motion of Senator Connolly (Ottawa West) for the third reading of Bill C-20, respecting citizenship.

Senator Perrault: Honourable senators, in recent days a number of questions have been asked regarding Bill C-20, and requests have been made for commitments from the Minister of Justice with respect to the constitutionality of this proposed measure. At page 2324 of the *Debates of the Senate* of yesterday, the Honourable the Leader of the Opposition asked whether it was possible to obtain the assurance that the government would submit this clause to the Supreme Court for its opinion on its constitutionality. Senator Grosart, on June 30, made the same request. He asked that clause 33 not be proclaimed until its constitutionality is determined. There were requests of a similar nature made earlier by the Opposition. I want to assure honourable senators that I have brought these requests to the attention of the Minister of Justice, but I have not as yet been able to obtain any assurance or guarantee from him that he feels bound to refer this matter to the Supreme Court.

The Honourable Senator Grosart, in a speech made on June 30, said that, in effect, he would be satisfied to have made known the concerns of the Opposition to the Minister of Justice, and I have done so. I have expressed in writing those concerns. As well, I have communicated personally with the Minister of Justice regarding this bill. I have also brought to the attention of the Minister of Justice the concerns expressed yesterday in this chamber by the Leader of the Opposition with respect to subclauses (2) to (6) of clause 33. The Honourable the Leader of the Opposition spoke about this matter earlier. I have for the information of honourable senators today, however, an additional explanation of this particular clause. It is not unduly long, so I propose to present it at this time.

Senator Asselin: Are you an expert?

Senator Perrault: The purpose of clause 33 is to bring the whole of the Citizenship Act into force on a day to be fixed by proclamation of the Governor in Council. This means that, once the proclamation has been issued, the whole of the act, including clause 33, becomes law on the day set out in the proclamation.

● (1600)

However, part of the bill, namely, subclause (7) of clause 33, provides that subclauses (2) to (6) of clause 33 shall come into force in a given province "only upon a day fixed in a proclamation of the Governor in Council declaring those subsections to be in force in that province." I know the Leader of the Opposition touched on that basic point earlier today. This means a second proclamation is required before subclauses (2) to (6) of clause 33 can be operative in a particular province. In other words, the bill clearly provides for a two-step procedure before the authority that is given to provinces in subclauses (2) to (6) can be acted upon in a given province.

This is different from the proclaiming power that was provided in the case of the "breathalizer" amendment that was the subject of a reference to the Supreme Court in 1970. As J. Noel Lyon has pointed out in the article in the McGill Law Journal, to which Senator Flynn referred yesterday, the Criminal Law Amendment Act, 1968-69, was "an omnibus bill containing a number of unrelated amendments," and the intention of Parliament was to proclaim various parts of these unrelated amendments in force at different times, leaving other parts unproclaimed. The intention, in the case of Bill C-20, is to bring the whole of the act into force on a specific date and to provide for a second proclamation in respect of the operation of subclauses (2) to (6) of clause 33 in any particular province.

While I cannot at this time provide a commitment from the minister that he is inclined at the present time to refer the matter to the Supreme Court for interpretation, I want to assure honourable senators that the points raised have been brought to his personal attention and they are under consideration by him for possible future action. However, I can give no guarantee beyond that.

Honourable senators, having made that statement I would urge that we proceed to third reading of Bill C-20.

Senator Flynn: I would just mention to the Leader of the Government that the doubts expressed concerning this matter did not emanate only from this side of the house; that there was a vote of 23 to 30 on a substantial amendment moved by Senator Laird. I hope the minister will consider that. A result such as that in a Senate composed of a large majority of government supporters should suggest to him very insistently that he should do what I have suggested.

Senator Perrault: The matter has been brought quite emphatically to his attention. He has been made very aware of the proceedings in this chamber. I want to assure honourable senators on that point.

Senator Grosart: Honourable senators, I understood the Leader of the Government to say I had said that I would be satisfied on this matter if the concern of some senators about the constitutionality of certain subclauses of clause 33 were taken into consideration. Of course, I was speaking to a motion made by the Leader of the Opposition; I was referring only to the reply given by the Leader of the Government here, and said I was satisfied with his statement that he would take it up with the minister. That should not be taken to mean that I would be satisfied that the whole matter would be resolved merely by its being referred to the minister.

Senator Perrault: I understand.

Senator Grosart: The Leader of the Government has suggested that we should now vote on third reading. We have another motion before us, which is not for third reading—a motion moved by Senator Macdonald.

Senator Perrault: Of course. It is a motion to refer the bill back to committee.

Senator Grosart: Yes, to refer it back to committee. I have not consulted the Leader of the Opposition on this, but my suggestion would be that we might defer this until tomorrow in the hope that in the meantime the Leader of the Government might renew his efforts and obtain, if not a clear declaration from the minister that he will refer the matter to the Supreme Court, at least an undertaking that he will produce for consideration by members of Parliament in both houses a clear statement of the government's position on constitutionality. I know a statement has been made, but it would appear not to be conclusive. Perhaps the minister could at least table a white paper, or whatever might be required, to satisfy us that the question of constitutionality has been taken into consideration in relation to these subclauses.

Senator Goldenberg: Would Senator Grosart allow a question? Is he suggesting that the government, whether it is a government of the Liberal Party or a government of the Progressive Conservative Party, will introduce a bill without having tried to assure itself that its provisions are constitutional? Surely the government must have checked this. I was not a member of the committee, but before asking Senator Grosart to answer, I would say as a lawyer that if a client of mine were affected by clause 33 I would probably go to the courts on the question of its constitutionality. That is how it is done. If we are going to expect the minister introducing legislation to submit everything to the courts before Parliament approves, calling on the courts first to decide on constitutionality, we will never legislate effectively.

Senator Flynn: Oh, no.

Senator Asselin: That is not the question at all.

Senator Grosart: I do not want to beg the question, but I think I have to say that Senator Goldenberg has not studied the history of legislation very carefully if he makes the statement he has just made. Of course, governments have on many occasions backed up their intentions in introducing legislation by supplementary papers of various kinds, including statements of their views on the constitutionality of the measure. I was not merely asking whether the government has studied the matter. Of course they have. I would assume that the government did refer the matter to the Department of Justice, and received an opinion. I would assume that. If the government is not prepared to go so far as to refer the matter to the Supreme Court—and we have rules in the Senate which make it quite possible for us to move that certain bills be referred to the Supreme Court; there is nothing new about this—if the government has such an opinion, and if, in spite of the debate that has taken place, it is still of the same opinion, then it should inform Parliament that it is of that same opinion, because there seems to be some doubt. There is nothing unusual in suggesting that the government inform Parliament why it believes a certain measure to be constitutional. The matter has been questioned, and that is all I am asking.

Senator Perrault: Honourable senators, may I say briefly that the bill before us is the result of months of negotiation with the premiers of Canada and the attorneys-general of Canada. It has been before a committee in the House of Commons, where the constitutional question has been raised and well debated. It has been before a committee of this house for over seven weeks. The Minister of Justice appeared before our committee. Much as I respect the views and opinions of the honourable Deputy Leader of the Opposition, I would say again that ample opportunity has been given for input from every provincial jurisdiction in this country. They support this bill, including, I understand, some Progressive Conservative provincial governments in the nation. We now have a proposal that there be a white paper with respect to constitutionality. I must say that the government rejects the notion, and I urge that we not refer the bill back to committee, but that we proceed to give it third reading.

Some Hon. Senators: Question.

The Hon. the Speaker: It is moved by the Honourable Senator Connolly (Ottawa West), seconded by the Honourable Senator Macnaughton, that this bill be now read the third time.

● (1610)

In amendment, it is moved by the Honourable Senator Macdonald, seconded by the Honourable Senator Grosart, that the bill be not now read the third time but that it be referred back to the Standing Senate Committee on Foreign Affairs for consideration of the implications of section 33.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those who are in favour please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those who are against please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it. I declare the motion in amendment lost.

Senator Grosart: On division.

The Hon. the Speaker: I declare the motion in amendment lost on division. Shall the main motion for third reading carry?

Senator Flynn: Honourable senators, I cannot let the bill pass without replying to my good friend Senator Goldenberg. It is quite obvious that the government, when it introduces legislation, has the advice of the various departments involved, including the Department of Justice. But I am sure it will not surprise him when I say that in cases of doubt the government always claims to have jurisdiction. That is the history of the federal Parliament, and it is the history of many of the provincial legislatures. That is why it has often happened that the Privy Council and then the Supreme Court have quashed certain pieces of legislation, considering them to have been beyond the competence of the particular legislatures that passed them. So it all depends—some cases are clearer than others; some are more obscure.

I would say that in the present case the discussion in this house, and the long discussions in the other place referred to by the Leader of the Government, suggest that there may be something to the opinions of those who think that this particular clause of the bill is not within the competence of Parliament.

We would not ask the government to refer to the Supreme Court every clause of a bill, but this is a very special case. I do not think Senator Goldenberg would insist that we cannot ask the government in cases like this to refer the matter to the Supreme Court. For God's sake, that's part of what we are here for.

Senator Goldenberg: I might just say in answer to Senator Flynn that I did not suggest that we cannot do it. I do not think that we should try to do it, and, as Senator Flynn may have noted, I did not commit myself on the constitutionality of section 33. I did say that as a lawyer, if a client of mine were affected by it, I think I would take it to the courts, and that is how I think it should get to the courts.

[The Hon. the Speaker.]

Senator Flynn: That is exactly what I want to prevent—one of my friend's clients having to go to the Supreme Court, becauses I want that client to be spared the fees which Senator Goldenberg would charge him.

Senator Smith (Colchester): Honourable senators, I cannot help feeling that the argument is fallacious that because other people think this provision is constitutional it ought to satisfy the consciences of the members of the Senate. I thought one of our duties was to examine every bill which came before us from every point of view—whether it be its constitutionality, its practical merits or whatever—and I thought it was our duty, upon such consideration, to give effect to our considered opinions. It does not move me in the least to have the Leader of the Government say that a great number of people have agreed to it. How much consideration of an impartial nature or from the point of view of the citizens of this country was given to it? Or was it talked about in these discussions in the sense of, "Well, what can we do to bring about what we think the people who are discussing it want done?" What confidence can we have that anybody represented the views of the taxpayers either on the merits or on the constitutionality?

With all respect to Senator Goldenberg, I think he will remember, as chairman of that very ably chaired committee, the Standing Senate Committee on Legal and Constitutional Affairs, that some of the evidence given before that committee, by those who ought to know what the law is or what the law means, was not such as to inspire any great confidence in their judgment in this matter.

Surely, if one cannot appeal to a sense of reason and of right and to the innate merit of a matter with respect to the passage of a bill, one should not resort to the appeal that, "Well, look at all these people who have looked at it. They must be right. The Minister of Justice talked about it for two hours somewhere." To me that really is simply giving up and throwing to the winds the rights and duties and responsibilities of this Senate. If that is the way we are going to deal with things, it is not much wonder that in some places we are not held in as high regard as we should like. I therefore cannot bring myself to vote for this bill on third reading, or on any other reading, merely on the arguments put forward by the Leader of the Government and on the argument which has not quite been put forward but has with some temerity been suggested by Senator Goldenberg.

Senator Forsey: Honourable senators, I should simply like to record my regret that the Opposition did not ask to divide the house and have a recorded vote on this amendment which has just been defeated.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the main motion for third reading of the bill?

Hon. Senators: Agreed.

Senator Grosart: On division.

Motion agreed to and bill read third time and passed, on division.

BANKING, TRADE AND COMMERCE

NOTICE OF COMMITTEE MEETING

Senator Langlois: Honourable senators, before moving the adjournment of the Senate I should like to bring to your attention that a meeting of the Standing Senate Committee on Banking, Trade and Commerce to consider Bill C-58, and the report made in relation thereto, is scheduled for 5 o'clock this afternoon in room 356-S. The meeting is *in camera*, of course.

The Senate adjourned until tomorrow at 11 a.m.

29555—98½

APPENDIX

(*See p. 2335*)

LETTERS RESPECTING AIR TRAFFIC SERVICES IN THE PROVINCE OF QUEBEC

Ottawa, Ontario
K1A 0N5
July 1, 1976

M. Roger Demers,
Président,
Association des Gens de l'Air du Québec,
a/s Tapis Rouge,
Aéroport de Québec,
Québec, Qué.

Dear Mr. Demers:

I appreciated the opportunity to meet with you and your associates to discuss the implementation of further bilingual air traffic services in Quebec. You know that we remain fully committed to such implementation just as soon as safe procedures can be certified.

The various steps we have agreed to, including the creation of a Commission, are simply designed to meet the argument that we might neglect safety in any way by promoting bilingual services. I am confident that we will succeed in all of this and I urge your cooperation and assistance in the work we have to do.

I should like to clarify certain misunderstandings concerning the role of the Commission and particularly the advisers and experts they will select. It is the Commission and the Commission alone which will determine the selection.

We agreed to work with CATCA on a list of controller advisers for the possible use of the Commission. We will welcome your assistance in the preparation of the list and we assure you in any case, that unless it is a balanced and sound list, we will not join in submitting it to the Commission. In any event, Les Gens de l'Air as well as CATCA could recommend any advisers to the Commission separately.

We have asked the Commission to deal expressly with CATCA and CALPA arguments if they still contend that safety is not assured. As you know, that could arise when Transport Canada has certified certain procedures to be safe and has indicated our readiness to implement them to expand bilingualism. At that point the Commission will express its judgement on the safety issue and will dispose clearly of the CATCA and CALPA arguments that cannot be substantiated. Incidentally, the word "tout" was erroneously written into the French text of understanding where the expression should have read "un doute raisonnable". This in no way gives either organization a veto: they do not have to be convinced or say so; the Commission need only explain why they disregard the arguments. That will assist us all in satisfying the people of Canada that our certification of safety is right.

I have asked my officials to work closely with you in all matters connected with the implementation of further bilingual air traffic services in Quebec. I urge you to cooperate with us to the full. I am confident that we will succeed and I repeat our objective and commitment of providing French and English service throughout Quebec Air Services. I was distressed to see how fully the language dispute has created a lack of recognition in CATCA for your needs and objectives. I have always tried to have your interests in my mind but to do so properly, I will want to have close contact with "Les gens de l'Air." I look forward to next week's meeting.

Yours sincerely,
Otto Lang

cc: J. M. Livingston,
President
The Canadian Air Traffic Control Association

K. A. Maley
President
The Canadian Air Line Pilots' Association

July 6, 1976.

The Honourable Otto E. Lang,
Minister of Transport of Canada,
Ottawa, Ontario.

Dear Mr. Minister:

Before meeting, studying the terms of reference and beginning the work given to the Commission of Inquiry relating to the safety of the introduction of bilingual IFR Air Traffic Services in Quebec, the Commissioners believe it necessary that the implications for the Commission of the terms of the Memorandum of Understanding made June 28 between yourself and CATCA and CALPA should be determined precisely, and any ambiguity dispelled.

Having regard to certain statements that have been made in the press, it may be worthwhile mentioning that none of the Commissioners had any part in the preparation of the Memorandum of Understanding, the terms of which only came to their knowledge when they were made public.

On Monday, July 5, you delivered to us certified copies of the Order-in-Council authorizing our appointment; of the Memorandum of Understanding; of your letter of July 1 to l'Association des Gens de l'Air du Québec, and of your proposal for an Order contemplated by clause 8 of the Memorandum.

In particular, we will examine, in order, clauses 2, 3, 4, 7 and 9 of the Memorandum.

2. THAT a prerequisite to the expansion or introduction of any bilingual air traffic service be a unanimous report of the Commission declaring the proposed expansion or introduction to be consistent with the maintenance of current safety standards in Canadian air operations.

This provision is to be applied after the Commission has delivered a report. It is well known that once a report has been given by a commission, a government may give it whatever effect it wishes. That does not concern the Commissioners.

The Commissioners are free to give their opinions, be it by a majority or unanimously, in accordance with section 21(1) of the *Interpretation Act* which reads as follows:

21.(1) Where an act or thing is required or authorized to be done by more than two persons, a majority of them may do it.

We are accordingly of the opinion that clause 2 of the Memorandum does not bind the Commission.

3. THAT the terms of reference now contained in Order in Council PC-1976-1576 should include a provision to the effect that "the Commissioners shall append to their reports any statement on the aspects of the inquiry reported upon, received from CATCA or CALPA within a specified period of time designated by the Commission".

It is the Government that is responsible for making public the report of a commission and to have it printed and distributed. On the other hand, it is customary for a commission, in delivering its report, to turn over all the documents, exhibits, reports, statements or writings that it collected so that they may be kept by the Government. The Commission intends to follow this practice, and the Government will be free to publish the statements of CATCA and CALPA. Viewed in this way, clause 3 does not seem to us to present any difficulty to the Commission.

4. THAT the terms of reference should include a further provision to the effect that "the Commissioners shall not in any of their reports indicate that safety has been demonstrated unless they can justify beyond a reasonable doubt why any contrary view expressed by CATCA or CALPA should not prevail".

In your letter of July 1, 1976, you have written to l'Association des Gens de l'Air du Québec ". . . This in no way gives either organization a veto: they do not have to be convinced or say so; the Commission need only explain why they disregard the arguments . . ."

That seems to us to mean that reasons must be given in our report, and such an interpretation of the clause is acceptable to us.

7. With reference to the "specially appointed professional advisers" mentioned in paragraph (c) on page 1 of the terms of reference, Transport Canada and CATCA will submit a joint list of appropriate controller advisers to the Commission.

In our view those words are not restrictive, and as you said in your letter of July 1 to l'Association des Gens de l'Air ". . . It is the Commission and the Commission alone which will determine the selection."

In our opinion that is the meaning to be given to section 11(1) of the *Inquiries Act* which provides that the Commissioners must be authorized by the commission issued in the case to engage the services of experts, but, once such authorization has been given, the law does not provide for any restrictions. The Act leaves the choice of the experts entirely in the discretion of the Commissioners.

11.(1) The commissioners, whether appointed under Part I or under Part II, if thereunto authorized by the commission issued in the case, may engage the services of such accountants, engineers, technical advisers, or other experts, clerks, reporters and assistants *as they deem necessary or advisable,* and also the services of counsel to aid and assist the commissioners in the inquiry.

While such a list will be most useful, the Commission will, nevertheless, feel free to consider other experts, if need be, whether by engaging their services as contemplated by section 11, or by summoning them as witnesses as provided in section 4.

9. THAT, following the tabling of the final report of the Commission in Parliament, the government will present a resolution to the House of Commons seeking concurrence therein in a free vote.

As we have said earlier, what the Government does with a report after it has been delivered does not concern the Commissioners, and it is not their function to comment upon this provision.

W. R. Sinclair
Julien Chouinard
Darrel V. Heald

THE SENATE

Thursday, July 8, 1976

The Senate met at 11 a.m., the Speaker in the Chair.

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the number and amount of Loans to Immigrants made under section 65(1) of the Immigration Act for the fiscal year ended March 31, 1976, pursuant to section 65(6) of the said Act, Chapter I-2, R.S.C., 1970.

Copies of Statement on operations under The Returned Soldiers' Insurance Act for the fiscal year ended March 31, 1976, pursuant to section 17(2) of the said Act, Chapter 59, Statutes of Canada, 1951.

Copies of Statement on operations under the Veterans Insurance Act for the fiscal year ended March 31, 1976, pursuant to section 18(2) of the said Act, Chapter V-3, R.S.C., 1970.

Report of Canadian Arsenals Limited, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND (NO. 2)—REPORT OF COMMITTEE—PRESENTATION LATER THIS DAY

Senator Argue: Honourable senators, the Standing Senate Committee on Agriculture has considered Bill C-88. However, I do not have the report of the committee before me at this time. I would ask for leave to present the report later this day.

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

Hon. Senators: Agreed.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting today, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

AIR TRANSPORTATION

OFFICIAL LANGUAGES ACT—LANGUAGE RIGHTS OF AIR PILOTS IN PROVINCE OF QUEBEC—ORDER STANDS UNTIL LATER THIS DAY

On the Order:

Resuming the debate on the motion of the Honourable Senator Lamontagne, P.C., seconded by the Honourable Senator Forsey:

That the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Honourable senators, I was wondering whether it would be possible to stand this item, in view of the absence of Senator Lamontagne, who may be here later today.

Senator Langlois: Stand until later this day?

Senator Flynn: If he comes in later we will see how things are going.

Order stands.

CHRISTIAN EVANGELICAL CENTRE OF CANADA

ACTION OF DEPARTMENT OF NATIONAL REVENUE—DEBATE CONCLUDED

The Senate resumed from Tuesday, June 8, the debate on the inquiry of Senator Forsey calling the attention of the Senate to the action of the Department of National Revenue in the case of the Christian Evangelical Centre of Canada.

Hon. John M. Macdonald: Honourable senators, since it seems that we have some time to spare this morning I am sure you would wish me to take advantage of the opportunity to say a few words on this matter.

As you know, recently Senator Forsey gave notice that he would call the attention of the Senate to this matter, and on June 8 he did discuss it, and I suppose until he brought the matter to our attention most of us were not familiar with it. You may recall the facts of this particular case. This religious organization had lost its status as a charitable organization with the Department of National Revenue through its failure to file some required report, and it had applied for reinstatement. Before the matter was dealt with the organization informed the department

that it would be holding a peaceful demonstration before the Soviet Embassy where it hoped to present a petition to the ambassador. Apparently the department felt that that would constitute political activity and, as a courtesy, it informed the organization that such activity might jeopardize its chances of being reinstated as a charitable organization, since political activity may not be interpreted as charitable under the guidelines of the department.

Perhaps I should interject here that while I am sure the officials of the department acted from the best of motives, nevertheless their action might well be taken to mean that the department did not want this group to hold the proposed demonstration, and, in fact, it did not.

The case is important in that the organization involved is not one of the larger religious groups in Canada, and it might well feel intimidated by a warning from the Department of National Revenue. However, apart from this particular case, as Senator Forsey pointed out, a serious question of principle is involved. Can any charitable, religious or educational organization engage in or participate in any kind of political activity without running the risk of losing its status as a charitable organization under the Income Tax Act? It should be remembered that neither charitable nor political activities are defined in the Income Tax Act. At the present time over 30,000 organizations qualify for the status of charitable organizations, so the guidelines or principles set up and followed by the Department of National Revenue are most important.

I understand the principle followed by the department is that an institution qualifies as a charitable organization if it can be classified as engaging in the advancement of religion, the relief of poverty, the advancement of education or some other activity of benefit to the community as a whole.

● (1110)

I suppose that over the years it was not too difficult to classify these various organizations, but as Senator Forsey has pointed out this is no longer the case. Recently, another organization, Amnesty International, has become concerned. This is an independent, non-government organization. It endeavours to ensure the right of everyone to hold and express his beliefs. Amnesty International works, irrespective of political considerations, for the release of men and women who are in prison because of their beliefs, ethnic origins, colour or language, provided they have neither used nor advocated violence.

I propose to quote from a letter from Amnesty International to various members of Parliament. The organization was concerned, after the budget speech was given, because it was there stated that a revision was to be made of the law relating to charitable organizations. It so happens that while there is no contact between this organization and the Christian Evangelical Centre, they work towards the same end in that there was a minister of religion, for example, who was imprisoned in Russia, and both organizations are trying to obtain his release. This organization, Amnesty International, had this to say:

> Our organization has, since 1974, been registered with Revenue Canada as a charitable organization, that is to say, an active charity. This status is of considerable importance to the growth and development of our work, for income was derived from tax exempt contributions.
>
> Although we have this status, it is far from clear whether the full range of our activities is regarded by Revenue Canada officials as charitable. When we applied in 1974 for registration as a charitable organization we were obliged by the officials to accept, as a statement of objectives, a text which contains, among other things, the following proviso:
>
> "provided that the Corporation (i.e. Amnesty International Canada) shall not in any way advocate political action". (supplementary Letters Patent of May 30th, 1974).
>
> It is far from clear what this means. Amnesty does not advocate anything, except respect for human rights, to which Canada officially subscribes by various instruments, such as the Bill of Rights and the International Covenants. If the provision were very literally construed, it might prevent us from communicating with the parliamentary group about individual cases or general issues on the ground that such action was political.

Honourable senators, as you can see, this concerns not only one organization but, perhaps, many. Many organizations which are classified as religious, for example, engage from time to time in activities which could be said to be political, such as holding demonstrations, passing resolutions, presenting petitions, and the like. Let me tell you this: certainly the church to which I belong has taken strong stands on matters which could be termed political; indeed, I recall reading that at the time of the recent elections in Italy, the Pope—the head of my Church—strongly advocated the defeat of the candidates of the Communist Party and urged the electors to vote against them. I do hope, honourable senators, that these actions on the part of the head of my Church will not tempt the Department of National Revenue to declassify us as a religious organization.

I believe, with Senator Forsey, that it is perfectly proper for organizations which are charitable, religious or educational, to engage in the kind of action the Christian Evangelical Centre wanted to take, and I hope that the restrictive interpretation of the act followed in that case will not be repeated. I would suggest that the Department of National Revenue review its guidelines in these cases and take into account the fact that times have changed. It is no longer possible to put charitable, religious or educational organizations into narrow compartments, as it were, and I think we have to recognize that for better or for worse religious organizations especially are increasingly being concerned with matters which but a few years ago would have been considered none of their business and a matter for political parties.

Honourable senators, I am glad that Senator Forsey brought this matter to our attention and I certainly support him in the stand that he has taken.

Senator Rowe: Honourable senators, before Senator Macdonald resumes his seat I wonder if I might ask him a question? I was very much interested, as I am sure others were, in his figure of 30,000 religious and charitable organizations which have applied for and enjoy income tax

exemption. I was wondering, in the case of the churches, any of the larger churches, and here let us take the United Church of Canada, for example, if that church as a body enjoys income tax exemption on contributions to it, or do the individual churches such as, for example, the Timothy Eaton Memorial Church in Toronto, have to apply for such exemption on an individual basis? I wonder if Senator Macdonald would have that information. I know it is in the act, but I am not familiar with it.

Senator Macdonald: I am sorry, honourable senators, I cannot give a definite answer to that question. My impression would be that each church itself would enjoy the status of a religious organization, but it could very well be that it would have to be the individual church that would have to make the appropriate application.

Senator Forsey: Honourable senators, I wonder if I might be allowed to answer the question which Senator Rowe has just raised, because I happen to be the treasurer of a French-language United Church. We have to apply individually, and we have an individual number and we make individual returns every year.

The Hon. the Speaker: Honourable senators, as no other honourable senator wishes to participate, this inquiry is now considered as having been debated.

BUSINESS OF THE SENATE

Senator Choquette: Honourable senators, in view of the number of orders that have been stood, I should like to ask the Leader of the Government why we were convened this morning at 11 o'clock knowing very well that Senator Lamontagne's resolution would be dealt with by only one or two senators, either from this side of the house or from the opposite side. Have we the assurance now that Senator Lamontagne will be here later this day—later this morning, for instance? If he will be here later this day, then we will have to come back this afternoon only for that purpose because everything else is being stood.

Senator Perrault: Honourable senators, may I with respect point out that in the Orders of the Day Order No. 1 stood in the name of Senator Phillips. But he was not here this morning. We had anticipated a lively second reading debate on this subject, but for that reason we were not able to proceed with that item.

As to Order No. 3—resuming the debate on the motion of Senator Lamontagne that the Senate affirms its support of the Official Languages Act—your leader chose, and that is his discretion, not to proceed with this item today. So really the disposition of today's Order Paper is not in the hands of the government.

May I say by way of information that if it is possible to deal with the second reading of Bill C-68, to amend the Medical Care Act, later this day, the Minister of National Health and Welfare is prepared, if the Senate so desires, to come here to testify in Committee of the Whole on this important bill later in the afternoon. But this matter, of course, is in the hands of the Senate. Having said that, unless there are other motions, I would move adjournment to the call of the bell at approximately 2 o'clock.

[Senator Rowe.]

• (1120)

Senator Flynn: Are there other senators who would care to speak at this time to Bill C-68, to amend the Medical Care Act? I am quite sure I could yield on behalf of Senator Phillips if that is so.

Senator Perrault: We had anticipated that Senator Phillips would be speaking this morning.

Senator Grosart: That does not prevent other senators from speaking.

Senator Flynn: We will yield if other senators wish to speak.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND (NO. 2)—REPORT OF COMMITTEE

Leave having been given to revert to Reports of Committee:

Senator Argue, Chairman of the Standing Senate Committee on Agriculture, reported that the committee had considered Bill C-88, to amend the Canadian Wheat Board Act (No. 2), and had directed that the bill be reported without amendment.

THIRD READING

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

Senator McDonald: I move, with leave of the Senate, that this bill be read the third time now.

The Hon. the Speaker: Is leave granted?

Senator Flynn: Why? Because you will not be here next week?

Senator McDonald: In answer to Senator Flynn, I would hope that we will not be here next week. Before resuming my seat I wish to refer to the remark made by Senator Flynn yesterday in this respect. It is all very well for senators who live in the immediate area, which includes Montreal and Quebec City, to be here for a three-day week, but it is extremely difficult for senators who live in the far reaches of this country to be running back and forth, especially in the month of July. I am one of those senators who would like to sit here every day of the week until this session can be recessed in order to allow senators to return to their constituencies and remain with their people for more than a few hours. I would like to see this house complete its work at as early a date as possible so that senators may leave and remain at home for two or three months.

Senator Flynn: Leave is granted, but I suppose some senators on the other side who were unable to be here this week, of course, would not like to receive the same advice for next week.

Senator McDonald: Other senators can speak for themselves, but I am sure there are many in this house who are fed up with dilly-dallying around rather than proceeding with the work that is before us.

Senator Flynn: That is your problem.

Senator McDonald: It is not my problem; it is yours.

Motion agreed to and bill read third time and passed.

The Senate adjourned during pleasure.

At 2.30 p.m. the sitting was resumed.

MEDICAL CARE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

The Senate resumed from yesterday the debate on the motion of Senator Bourget for second reading of Bill C-68, to amend the Medical Care Act.

Hon. Orville H. Phillips: Honourable senators, after the excellent speech of Senator Smith (Colchester) yesterday afternoon there is very little to be added to the criticism of this bill. I should like to recall the situation when the original act was introduced in 1966. Various members of the Senate were at that time very anxious to claim responsibility for medicare. I recall their reaching into their jacket and trousers pockets to produce various platforms that had approved it at Liberal conventions as far back as 1929, indicating that, after all, the Parliament of the Liberal Party did work slowly. Today the enthusiasm for Bill C-68 is a great deal less.

When medicare was introduced, the provincial governments of that time claimed that they were being coerced into accepting the program by statements of the federal government. Various members of the cabinet were going around the provinces stating that the federal government had so many millions that it wished to allocate to certain provinces, such as Ontario or Newfoundland, and complaining that the provinces did not accept the grants for medicare. Today the situation has reversed itself completely.

The health field is one of the few areas in which the federal government seems determined to make cut-backs. One wonders what happened to the cry of "free" medicare. Apparently the Canadian government believed medicare was free, and took advantage of the so-called free care. Now the federal government is complaining about increases in costs, and is attempting to make the provinces do the dirty work and cut back the allocation of funds for medicare.

New Brunswick refused to join the medicare program at its introduction. The premier of that day refused to participate until the federal government guaranteed to maintain its share of the cost of medicare. New Brunswick maintained that if the federal government failed to make the necessary guarantees its resources were not sufficient to meet the expenditure. The Premier of New Brunswick of that day must have known the Liberal Party quite well. Senator Robichaud of New Brunswick can now look at Bill C-68, and say that on at least one occasion he was accurate in his forecast.

All provinces opposed the introduction of Bill C-68. The bill was introduced following a meeting of the federal and provincial ministers of health in August 1975. At that meeting the provincial ministers of health opposed Bill C-68; they requested a delay in its introduction. The provincial ministers had not arrived home before receiving notice that Bill C-68 was to be introduced. Cooperative federalism apparently died a very sudden death. The provinces have become used to the familiar message from the Trudeau government, "Take it or leave it."

On the same day that Bill C-68 was introduced, as honourable senators will recall, we received a copy of a speech of the Minister of National Health and Welfare, delivered in western Canada. Apparently he had a different attitude in western Canada. The speech strongly advocated the establishment of a new program, a guaranteed annual income. The program was going to cost only a few million dollars annually. At the time of that speech in western Canada money was plentiful, and the generosity of the federal government knew no bounds. It seemed that the only item required was a provincial permit for a fire sale, and the Minister of National Health and Welfare was in the guaranteed annual income business. Money can be found for a new program of guaranteed annual income, yet reductions must be made in the field of medical care and hospitalization.

The federal government is quick to point out that the increases allowed in Bill C-68 are greater than the projected increases in the provinces during the first two years. After the first two years, the federal government, having supposedly consulted with the provinces, will determine the rate of annual increase by order in council.

Looking at agreements reached in recent federal-provincial conferences, can anyone really expect the views and requirements of the provinces to receive much consideration? The present Trudeau government has about as much concern for, and understanding of, provincial problems as Idi Amin has for hijacked air passengers.

In a recent meeting of the first ministers or premiers, the federal government in its presentation referred to the excellent consultation between the provinces and the federal government in the field of health care. If the consultations have been so effective, one must wonder why it is necessary to introduce Bill C-68 at this time, and, in addition, why it is necessary to establish future increases by order in council. That is a pretty big stick to give the government to wave at the provinces.

It was proposed at the recent meeting of the Prime Minister and the provincial premiers that the federal government would maintain its contributions at a level which rises with the rate of increase in the GNP. Statistics reveal that medical care costs have not increased at a rate comparable with the increase in cost of such items as food and shelter. Indeed, the medical profession has generally kept its annual increases to 4 per cent or less. The anti-inflation program is expected to be effective in keeping medical care costs at or near the present level of their annual increases. If this is the case—and Senator Denis in his introduction confirmed that—we must again ask why it is necessary to pass Bill C-68 at this time. Bill C-68 does not have a direct bearing on the Hospital Insurance and Diagnostic Services Act. However, the last of the Turner budgets served notice that the Hospital Insurance and Diagnostic Services Act will expire in four years. This subject also received considerable attention at the last meeting of the premiers, and the provinces were warned to get in line and be prepared to accept a greater share of hospital costs five years from now.

Bill C-68 also includes incentives for the provinces to extend lower cost health care in a program involving such items as nursing homes, paramedical services and community clinics. Federal-provincial negotiations have been conducted in this field for some time. Despite extensive consultations, no agreement has been reached. We must consider whether nursing homes provide the most desirable method of caring for the aged. The principle of sending the aged to a nursing home reminds me of the old Eskimo method of solving the problem of the aged—they sent them for a long walk in the cold Arctic winds—and I have a feeling that this attitude is beginning to make itself felt in our own attitude towards care for the aged.

● (1440)

During Senator Denis' remarks on planning during his speech—and I should quote the honourable senator; I would not want him to feel that I had misinterpreted his remarks—

Senator Flynn: That is impossible!

Senator Phillips: —he said:

> In short, this is a call for planning, moderation and a search for less costly alternatives, from which the provinces cannot but benefit.

However, honourable senators, Senator Denis did not say who is responsible for the planning and the moderation and the search for alternatives. It is impossible to begin a new program without the money and manpower to establish it. I feel the federal government should be providing assistance and leadership in this field rather than passing the full responsibility to the provinces.

As I mentioned earlier, the federal government has been attempting to persuade the provinces to utilize nursing homes without first determining if they, or other forms of accommodation, are available. Some provinces now allow a limited period of hospitalization for specific ailments. An example of this would be 30 days' hospitalization following a paralytic stroke. The patient is then required to leave the hospital, and if a bed is available in a nursing home he may enter the nursing home. However, a new situation then arises. When the patient is in hospital, full coverage is provided. If the patient enters a nursing home he does not have the benefit of full coverage. In fact, he may be required to pay the full cost of a nursing home. This seems to me a rather odd situation. The patient pays taxes and contributes to this program throughout his working lifetime, yet when he retires, and is forced to enter a nursing home, he is then required to pay.

I have seen some of the forms that various provinces require a patient over 65 years of age to sign on entry into a nursing home. They require complete control over any money the patient may have, any stocks he may own, his home and his car. Although some provinces are kind enough to exempt the sum of $600 for funeral expenses, beyond that everything must be signed over to the nursing home or the province. I think this represents one aspect of the matter that has not received sufficient consideration in the discussion of Bill C-68. I would like to hear from the sponsor of the bill an explanation concerning nursing home costs. Is the patient expected to assume the full cost, or will he receive health care coverage from the province? Bill C-68 does not clarify this.

[Senator Phillips.]

This bill is the first of a series respecting restrictions in payments to the provinces. Post-secondary education has already been selected as the next target. At the same time, the federal government urges the provinces to agree to a guaranteed annual income. Can we expect the provinces to accept the new program, with the higher expenditures involved, while we force them to pay a greater share of the cost of existing programs? The provinces now view agreements with the federal government in a number of fields as being in jeopardy. I think it is fair to say, honourable senators, that a federal-provincial agreement is about as effective and longlasting as a Lebanese ceasefire.

The principle of equality was the basis of a number of programs that were introduced in the post-war period. The cancellation of the present agreement under Bill C-68 will have a very adverse effect on the poorer provinces. Therefore, it is going to be most difficult to maintain the same standard of medicare across Canada if this bill is passed.

Again, honourable senators, I ask why it is necessary to pass this bill at this time. A series of conferences between the first ministers of the provinces and the Prime Minister, and between the federal Minister of Finance and the provincial ministers of finance, have broken up in complete disagreement over the proposed changes in federal assistance to the provinces. Bill C-68 is one of the bills causing this situation. I need not remind you that the Senate is expected to be the protector of the provinces and not the servant of the Liberal Party, as it presently is. If we are to live up to our responsibility as protectors of the provinces, I believe, honourable senators, that Bill C-68 should be delayed until there is more agreement between the federal government and the provinces.

Senator Burchill: Honourable senators, Senator Phillips' reference to nursing homes and senior citizens' homes prompt me to make one or two observations. I think this is a very important matter, and should be considered. Therefore, I should like, before the sponsor of the bill winds up the debate, to touch on some of the questions that Senator Phillips asked regarding the cost of keeping up these nursing homes and senior citizens' homes.

In our community, in the northern part of New Brunswick on the Miramichi, we have two wonderful nursing homes—one in Chatham and the other in Newcastle. But they are full. Each has a long list of people wishing to be admitted, and there is no room for them. I have visited these homes, honourable senators, and I have some friends there. They are well looked after; they are as happy as they can be in such institutions. But we do not have a sufficient number of such institutions in this country.

In our hospitals in both Newcastle and Chatham there are patients who are being requested to leave. They have received all the treatment that they can get there, and now they are being asked to leave in order to make room for others. But where are they to go? There just isn't any place for them. I know of two particular cases where the community has been searched to find beds for them, but there is no place for them to go. I think the provision of nursing homes to provide care for our elderly people who need care is a very important matter.

In this connection I would like to refer to one of my friends who is a patient in one of these homes, and who occupies a room with another patient. In other words, there

are two patients in the one room. He has told me that the charges are $25 a day for his bed. A man has to be in pretty good circumstances to be able to pay $25 a day; that is nearly $10,000 a year. I wonder just what the arrangements are. This man is not a pauper by any means. He has a house, but he had to leave the house he owned when he was not able to take care of himself, and become a patient in a senior citizens' home. I should like to know how that $25 per day is being met. He told me that was the charge to him, and I presume it is a charge that nursing homes are required to make to keep them going.

● (1450)

I hope the sponsor of the bill, when he replies, will tell us whether an individual patient is required to pay the full amount, or whether the provincial government shares the expense. I know people who have no income except for their old age security cheques, for which the government pays the whole shot. However, I am wondering what the arrangement is for a person who has some property, be it very small. I believe we should consider carefully the cost of operation of nursing homes, because they are needed very badly in our country today.

Senator Flynn: Before Senator Denis winds up the debate, I should like to ask the deputy leader whether it is the intention to have this bill, should it receive second reading, referred to a standing committee or to the Committee of the Whole. If it is to be referred to a standing committee, is there any possibility that the bill will be considered by the committee this afternoon? If it will not delay passage of the bill, I should like to move the adjournment of the debate at this time in order to provide a better opportunity for concluding it.

Senator Langlois: As the honourable Leader of the Opposition will no doubt recall, it had been hoped that this bill could be referred to the Committee of the Whole this afternoon. However, due to the delay in its disposal by this house this morning this plan had to be abandoned, because the minister was not available to appear before the committee this afternoon. Arrangements have therefore been made for the bill, if it receives second reading, to be referred by its sponsor (Senator Denis) to the Special Senate Committee on Science Policy, which will meet this afternoon. I believe the meeting has been scheduled for 3.30.

Senator Grosart: Not the Science Policy Committee.

Senator Langlois: No, the Standing Senate Committee on Health, Welfare and Science. The chairman of the committee can confirm that. I believe the committee is scheduled to meet at 3.30.

Senator Grosart: Will the minister be there?

Senator Langlois: His officials will be there.

Senator Grosart: Oh, no.

Senator Flynn: Will it make any difference to the work schedule of the Senate if second reading is given on Tuesday night?

Senator Langlois: It would mean that the committee might have to meet on Tuesday and I do not know whether that is possible. The chairman may be in a better position than I am to answer this question.

Senator Flynn: As far as the deputy leader is concerned, does it make any difference? Will we be coming back in any event on Tuesday?

Senator Langlois: Yes, I will move later on that we come back on Tuesday evening at 8 o'clock.

Senator Flynn: Unless the committee chairman says there are some problems about having the committee meet on Tuesday or Wednesday morning, I would move the adjournment of the debate. Has he any objection?

Senator Carter: The only problem is that we have called witnesses, and the witnesses are waiting to appear before the committee this afternoon.

Senator Flynn: Officials?

Senator Langlois: Officials.

Senator Flynn: Let them wait. I move the adjournment of the debate.

Senator Grosart: Surely, the situation, honourable senators, is that if this bill is to go to committee the minister should be there because it is a question of policy we are discussing here. The objections from both Senator Smith (Colchester) and Senator Phillips have been objections to the policy of the government with regard to the treatment of the provinces in respect of the commitment given at the time medicare was introduced. Surely, these are not questions which could properly be asked of the officials. Therefore, I support the motion that we adjourn now, and that we make sure that when the committee sits the minister is there.

Senator Langlois: I can only repeat what I said earlier. The minister was willing to come and it had been arranged for him to appear before the Committee of the Whole, but because he had too many other commitments he could not come.

Senator Flynn: We are not blaming you or the minister.

Senator Grosart: No one is blaming you.

Senator Langlois: I just did not want to leave any confusion.

Senator Flynn: I move the adjournment of the debate.

The Hon. the Speaker: It is moved by the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Grosart, that this debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Senator Hicks: On division.

The Hon. the Speaker: Carried, on division.

On motion of Senator Flynn, debate adjourned, on division.

AIR TRANSPORTATION

OFFICIAL LANGUAGES ACT—LANGUAGE RIGHTS OF AIR PILOTS IN PROVINCE OF QUEBEC—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Lamontagne, P.C., seconded by the Honourable Senator Forsey:

That the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.—(*Honourable Senator Flynn, P.C.*).

Senator Flynn: Stand. May I just explain that although I said earlier that I hesitated to continue the debate because of the absence of Senator Lamontagne, I must admit, as I told Senator Lamontagne privately, that I am not entirely ready. I think I may make a slightly better speech next Tuesday.

Order stands.

ADJOURNMENT

Leave having been given to revert to Notices of Motion:

Senator Langlois: Honourable senators, I move, seconded by the Honourable Senator Bourget, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until Tuesday next, July 13, at 8 o'clock in the evening.

Before the question is put I should like to give you the schedule of the work of the Senate for next week. As you know, yesterday it was hoped that it would be possible this week to dispose of the bills presently on our Order Paper and then adjourn until Bill C-84 reached us from the other place.

Senator Asselin: If it ever does.

Senator Langlois: Owing to the fact that it has been pretty well ascertained that even by extending our sittings into tomorrow we could not dispose of those measures on our Order Paper before the end of the week, and also because of the degree of uncertainty in respect of the possible date on which Bill C-84 would reach us, it has been decided in the present circumstances that it is preferable to adjourn until Tuesday evening.

We had hoped that by Tuesday evening we would have received a report from the Standing Senate Committee on Health, Welfare and Science on Bill C-68, to amend the Medical Care Act. I asked the chairman of that committee to endeavour to find out if the minister could be in attendance either before the committee or the Committee of the Whole, to consider that bill through the evening. This latter alternative would have been the better one.

● (1500)

The Standing Senate Committee on Banking, Trade and Commerce will probably be in a position to report to the Senate on Bill C-58 by Tuesday evening. It is possible that this committee will also sit some time on Tuesday, but no time has been set.

When we have completed our work on Bills C-58 and C-68 the only remaining item to be dealt with by the Senate before the long summer adjournment or prorogation will be Bill C-84, and by next Tuesday or Wednesday we should have a better idea of when this bill will come before us.

Motion agreed to.

The Senate adjourned until Tuesday, July 13, at 8 p.m.

THE SENATE

Tuesday, July 13, 1976

The Senate met at 8 p.m., the Honourable Maurice Bourget, P.C., Speaker *pro tem* in the Chair.

DOCUMENTS TABLED

Senator Perrault tabled:

Revised Capital Budget of Atomic Energy of Canada Limited for the fiscal year ending March 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-1500, dated June 22, 1976, approving same.

Report of Atomic Energy of Canada Limited, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970. (English text).

Report of the Superintendent of Insurance on the administration of the Pension Benefits Standards Act for the fiscal year ended March 31, 1976, pursuant to section 22 of the said Act, Chapter P-8, R.S.C., 1970.

Report respecting receipts and expenditures under Part V (Sick Mariners) of the Canada Shipping Act for the fiscal year ended March 31, 1976, pursuant to section 306 of the said Act, Chapter S-9, R.S.C., 1970 Nil Return. (French text).

Copies of Reports of the Anti-Inflation Board to His Excellency the Governor General in Council reporting its reference to the Administrator of the Anti-Inflation Act of—

(1) Collective agreement between the Atlantic Consolidated Foods Limited, Atlantic Sugar Division and the employees represented by the Bakery and Confectionery Worker's International Union of America, Local 443.

(2) Collective agreement between Western Grocers Limited, Winnipeg, Manitoba and the employees represented by the Retail Wholesale and Department Store Union, Local 469.

(3) Collective agreement between City Motors Ltd., St. John's, Newfoundland and the employees represented by the Transport and Allied Workers Union, Local 855.

(4) Collective agreement between Hickman Motors Ltd., St. John's, Newfoundland and the employees represented by the Transport and Allied Workers Union, Local 855.

(5) Collective agreement between City Motors Ltd., Gander, Newfoundland and the employees represented by the International Association of Machinists and Aerospace Workers, Local 544.

(6) Collective agreement between Hickman Motors Ltd., Gander, Newfoundland and the employees represented by the International Association of Machinists and Aerospace Workers, Local 544.

(7) Collective agreement between City Motors Ltd., Corner Brook, Newfoundland and the employees represented by the International Association of Machinists and Aerospace Workers, Local 544.

Copies of Order of the Administrator under the Anti-Inflation Act, pursuant to section 17(3) of the said Act, Chapter 75, Statutes of Canada 1974-75-76, dated July 8, 1976, and letters thereon from the Administrator to the Minister of National Revenue, respecting—

(1) Collective agreement between the Sudbury District Roman Catholic Separate School Board and the employees represented by the Canadian Union of Public Employees, Local 1369.

(2) Collective agreement between the Wentworth County Board of Education, Hamilton, Ontario and the employees in the secretarial, clerical group.

Report of the National Librarian for the fiscal year ended March 31, 1976, pursuant to section 13 of the National Library Act, Chapter N-11, R.S.C., 1970.

List of Commissions issued under authority of section 3 of the Public Officers Act during the year ended December 31, 1975, pursuant to section 4 of the said Act, Chapter P-30, R.S.C., 1970.

Report of the Canadian Radio-Television Commission for the fiscal year ended March 31, 1976, pursuant to section 31 of the Broadcasting Act, Chapter B-11, R.S.C., 1970.

Capital Budget of Air Canada for the year ending December 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copy of Order in Council P.C. 1976-1573, dated June 22, 1976, approving same.

Capital Budget of The St. Lawrence Seaway Authority for the year ending March 31, 1977, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C. 1970, together with copy of Order in Council P.C. 1976-1572, dated June 22, 1976, approving same.

Report of the Canadian Broadcasting Corporation, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 47 of the Broadcasting Act, Chapter B-11, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report of Teleglobe Canada, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 16 of the Teleglobe Canada Act, Chapter 77, Statutes of Canada 1974-75-76, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

BANKING, TRADE AND COMMERCE

ANNOUNCEMENT OF COMMITTEE MEETING

Senator Langlois: Honourable senators, with leave, I should like to make an announcement at this stage. I had a motion prepared seeking the permission of the Senate for the Standing Senate Committee on Banking, Trade and Commerce to sit tonight on Bill C-58, to amend the Income Tax Act. However, I am informed that this meeting has been postponed, and will take place at 9.30 tomorrow morning in room 256-S.

CITIZENSHIP BILL

SUGGESTED REFERRAL OF CLAUSE 33 TO SUPREME COURT—QUESTION

Senator Flynn: Honourable senators, I should like to ask the Leader of the Government, in view of the decision of the Supreme Court on the Anti-Inflation Act, and especially with regard to the position of the Government of Ontario in relation thereto, if the Minister of Justice would now agree that it is important to refer clause 33 of Bill C-20, respecting Citizenship, to the Supreme Court? It appears to me to present a very similar problem.

Senator Perrault: I have not had the opportunity to read the judgment of the Supreme Court. I presume the honourable senator has had that opportunity.

Senator Flynn: I read the newspapers.

Senator Perrault: I certainly do not feel that relying solely on fragmentary reports in the media, despite the merits of the media, should be the basis of actions and decisions in this chamber. Until I have had an opportunity to read the court's judgment I will withhold my judgment.

Senator Flynn: I will not discuss the merits of your answer.

COPYRIGHT ACT

CROWN COPYRIGHT—MINISTER OF SUPPLY AND SERVICES—QUESTION ANSWERED

Senator Perrault: Honourable senators, a question was asked by Senator Forsey on June 15, and again on July 6. I regret that Senator Forsey is not present in the chamber this evening. He asked:

1. Who is responsible for replacing in the *Economic Review*, April 1976, the customary, and legal, "Crown copyright reserved," by "Copyright Minister of Supply and Services"?

● (2010)

The answer is that the Department of Supply and Services made that decision.

[Senator Perrault.]

2. By what authority was this change, which appears to be a plain violation of section 11 of the Copyright Act, made?

The answer is by authority of P.C. 1976-104 dated January 20, 1976.

3. Has the Minister of Supply and Services been created a corporation sole?

The answer is no.

FOREIGN AFFAIRS

RESTRICTIONS OF SPECIAL PASSPORTS—QUESTIONS ANSWERED

Senator Perrault: Senator Grosart inquired on June 28 as to the authority for the Department of External Affairs making special regulations in respect of passports held by members of Parliament. He asked:

Under what authority does the Department of External Affairs do this?

The Passport Regulations charge signed on April 12, 1973, by the Secretary of State for External Affairs sets forth the authority for the administration of passport matters.

With leave of honourable senators I could have this placed in the *Debates of the Senate* unless it is felt that the document should be read at this time. It is a two-page summary.

Senator Grosart: I suggest that it be read now because there is some doubt as to whether that particular regulation does apply to the green passports.

Senator Perrault: I would be pleased to comply. It reads:

WHEREAS, pursuant to Section 4 of the Department of External Affairs Act. R.S.C. 1970—Chapter E-20, "the Minister, as head of the Department, has the conduct of all official communications between the Government of Canada and the government of any other country in connection with the external affairs of Canada, and is charged with such other duties as may be assigned to the Department by order of the Governor in Council in relation to such external affairs. . .", and

WHEREAS, pursuant to Section 3 of the Passport Regulations P.C. 1973-17 the responsibility for the administration of all matters pertaining to the issuing, revoking, withholding, recovery and use of passports has been assigned to the Department of External Affairs; and

WHEREAS, pursuant to Section 2 of the said Regulations, 'Passport Office' means that section of the Department of External Affairs, wheresoever located, that has been charged by the Minister with the administration of those passport matters mentioned in Section 3,

THEREFORE, I, Mitchell Sharp, Secretary of State for External Affairs, the responsible Minister, hereby charge the Passport Office, through the Under-Secretary of State for External Affairs, his deputies and successors, with the administration of all matters pertaining to the issuing, revoking, withholding,

recovery and use of passports, mentioned in Section 3 of the said Regulations.

The Honourable Senator Grosart also asked the following question:

Would the Leader of the Government also clarify, when he gives an answer, if the reason for the withdrawal of the validity of these passports to Taiwan has something to do with the safety of Canadians rather than with the fact that Canada revoked, went back on, its solemn promise that it would not take the action it did in respect of recognition of Taiwan?

The answer is: The limitation was not placed on the geographical validity of the passport because of the safety of Canadians but for the reasons previously mentioned.

Senator Smith (Colchester) asked the following question:

I wonder if, while doing that, the Leader of the Government would be good enough to find out just what the rationale is for such a restriction?

The answer is: The Secretary of State for External Affairs has explained in the house that because of the special status accorded the bearer of special and diplomatic passports and the fact that they are normally issued for the conduct of government business, the government's position has been that they should not be used for travel to countries which Canada does not recognize. The restriction is not limited to passports of members of Parliament but is a general rule applied to holders of diplomatic and special passports.

Finally, to clear up the passport question—I will leave the rest of the answers to a later date—Senator Forsey asked a question. This was the nature of his question:

As a supplementary may I ask the Leader of the Government if he is aware that the passport regulations, or certain of them, at all events, and the authority by which they are established or passed, that this question has been before the Joint Committee on Regulations and other Statutory Instruments and that there have been some acerbic comments by counsel to that committee and by the committee itself on the form in which the regulations are drafted?

He said:

We are . . . awaiting a reply from the department on this matter, because it seems to members of the committee . . . very dubious whether the form is in fact valid.

In reply to the question raised by Senator Forsey regarding the validity of the Canadian Passport Regulations, I am advised that the views of the Department of External Affairs on this matter were outlined in a letter dated May 2, 1976, which was considered by the Standing Joint Committee on Regulations and other Statutory Instruments at its meeting on May 27, 1976.

The issue is whether the Canadian Passport Regulations have been validly enacted pursuant to section 4 of the External Affairs Act. The view of the Department of External Affairs is that, because the delegation to the Secretary of State for External Affairs of the responsibility to issue passports under section 4 of the External Affairs Act is so closely linked with the criteria established by the Governor General in Council in exercise of the royal prerogative to govern the exercise of that responsibility, it was not improper to embody provisions regulating passports in a single instrument rather than in two separate instruments.

The standing joint committee, after careful consideration of these arguments, is of the opinion that the conferring of responsibility for the issuance of passports should preferably be accomplished by a statutory instrument issued under the royal prerogative. These views were outlined in a letter dated June 22 from the counsel of the standing joint committee. They are at present under consideration by officials of the Department of External Affairs.

Senator Grosart: As a supplementary, may I ask the Leader of the Government if he would obtain, at his convenience, an explanation of the rationale of the decision under this authority, if it is full authority—the rationale for the denial of the right to use the parliamentary passport for a parliamentarian to go to Namibia, formerly Southwest Africa, a territory the majority of whose citizens have long been attempting to obtain independence, while the right to use the passport has not been withdrawn in the case of South Africa, the jurisdiction which has steadfastly refused to grant independence and has actually refused to allow a United Nations Commission to go into the territory? The United Nations Commission was refused entry to South Africa and yet the department has decided not to withdraw the use of the passport to South Africa, but it has withdrawn use of it to this young, struggling nation which is attempting to gain its independence. Perhaps the Leader of the Government would obtain the rationale of that kind of decision.

Senator Perrault: Senator, I must take your question as notice because of its technical nature, but certainly Namibia has yet to achieve its independence, and the jurisdiction over Namibia, which, of course, at one time was a trust territory—

Senator Grosart: It still is.

Senator Perrault: —is very much in dispute, and the explanation may relate to the explanation given earlier in reply to the question directed to the government by Senator Smith (Colchester) that these passports are normally issued for the conduct of government business. The government's position has been that they should not be used for travel to countries which Canada does not recognize. The status of Namibia is a very controversial and indeterminate one at the present time. Certainly South Africa does not, I understand, recognize the right of Namibia to exist as an independent nation, and that could be part of the explanation, but I shall certainly seek a further explanation.

● (2020)

Senator Grosart: May I ask a further supplementary? Would the leader also seek an explanation of the statement he just made, quoting the department, I understand, to the effect that these permits are issued to parliamentarians for the "conduct of government business"? I understand that this is in no way the purpose of these permits, which are stamped over and over again for delegations going to other countries in recognition of the fact that

parliamentarians are going there simply as parliamentarians. They have nothing whatever to do with government business, and if the leader is suggesting that the use of these green passports is to promote government business, I think Parliament should have an explanation of that ridiculous statement.

Senator Perrault: Honourable senators, perhaps my explanation should be clarified. The terminology "promotion of government business" is employed in a general sense. When, for example, parliamentary delegations go abroad it can be said that such delegations are travelling in connection with official business relating to the Parliament of Canada.

Senator Grosart: That is another matter. That is not government business.

Senator Perrault: It may be another matter, but such missions certainly relate to the conduct of government business, parliamentary business, and related matters. However, if the honourable senator wishes, I shall certainly undertake to obtain further clarification.

[*Later:*]

DISTINGUISHED VISITORS IN GALLERY

DELEGATION FROM HOUSE OF COUNCILLORS OF JAPAN

Senator Macnaughton (Chairman of the Committee of the Whole): Honourable senators, may I interrupt these proceedings for a moment? Sitting in the gallery with Madam Speaker are her guests of this evening, and I should like to introduce them. They are: The Honourable Kenzo Kono, President of the Japanese House of Councillors, Mrs. Kono and Mr. Takeo Kono; Mr. K. Kose, Secretary to the President of the House of Councillors; and His Excellency Yasuhilo Nara, Ambassador of Japan, and Mrs. Nara. President Kono is the head of the Japanese Olympic delegation in Montreal.

Honourable senators, on your behalf I extend our warmest greetings and bienvenue to our distinguished visitors.

Hon. Senators: Hear, hear.

MEDICAL CARE ACT

BILL TO AMEND—SECOND READING

The Senate resumed from Thursday, July 8, the debate on the motion of Senator Bourget for second reading of Bill C-68, to amend the Medical Care Act.

Hon. Jacques Flynn: Honourable senators, I adjourned the debate last Thursday, not because I wanted to add anything to the criticisms made by Senator Smith (Colchester) and Senator Phillips but because at that time it appeared that honourable senators had not been warned that we might call a vote on this bill.

It is a very bad bill as far as we are concerned. It is a very bad bill as far as the provinces are concerned, also. I think the Senate should not let this bill go through without a vote. If the sponsor of the bill is allowed to close the debate, we will ask for a vote to be taken afterwards.

Senator Denis: Honourable senators—

The Hon. the Speaker *pro tem:* I wish to inform the Senate that if the Honourable Senator Denis speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

[*Translation*]

Hon. Azellus Denis: Honourable senators, like the Opposition Leader, no one will accuse me of being boring for long.

Senator Flynn: You could be.

Senator Denis: I just want to thank those who took part in this debate, especially my good friend, Senator Smith from Colchester who, between ourselves, spoke rather at length; he filled five or six pages in *Hansard*. He was probably trying to find a reason to oppose the bill, and as one of my friends used to say, he was vaccinated with a gramophone needle. However, I was glad to hear him, since he proved all through his speech that it was really the Liberal party that passed the Medical Care Act, because the opposition in the other place had some doubts. Senator Smith from Colchester used—

Senator Flynn: The other Senator Smith is not here, do not worry.

Senator Denis: Besides, he knew that his cause was lost in advance. He complained that it was bad, scandalous and fraudulous. He referred to the former Ontario premier, Mr. Robarts, and the Minister of Finance, Mr. Macnaughton, when he said it was a fraud. However, this was prior to the implementation of the Medical Care Act. But since then, some have said that it was not a fraud. Instead, this legislation made Canadians feel secure. Before saying that the federal government cheated the provinces, let us see what happened.

I have in hand appendix "N", issue No. 42, page 29, of the Minutes of Proceedings and Evidence of the Standing Committee on Health and Welfare and Social Affairs. As far as the 1973-74 federal government contributions to Ontario are concerned—as regards the fraud of the federal government—as far as Ontario is concerned, as I said, there was really a fraud; it got $246,342,000 from the federal government. If there was a fraud, it was in collusion with its friends, the Conservatives, that the Liberal party passed this legislation in the other place in 1966. In fact, this legislation was passed almost unanimously in the Senate because no vote was taken and nobody objected; there might have been a weak "on division" for the sake of appearances.

Senator Flynn: That was at the beginning.

Senator Denis: In 1966, more precisely, on December 6, 1966, a vote was taken in the other place and everybody agreed; there was no vote, but the Conservatives approved this fraud.

Senator Flynn: No, it was not a fraud at the time; it became a fraud.

Senator Denis: I mean that it is in 1968 that the Honourable Charles Macnaughton said it was a fraud.

How come they kept receiving millions of dollars from the federal government in 1974-75? They received $263,374,000: what a terrible fraud the federal government perpetrated on the government of Ontario!

My friend from Colchester complained about that fraud, but I wonder how much his province, Nova Scotia, received

from that contribution? In 1973-74, it was not 50 per cent it received from the federal government, it was 63.2 per cent. What a fraud, Honourable Leader of the Opposition!

Senator Flynn: Others received as much.

Senator Denis: 1974—

[*English*]

The Hon. the Speaker *pro tem:* Order.

Senator Flynn: Mr. Speaker, nobody has called anybody to order. I think you should remain in your seat.

The Hon. the Speaker *pro tem:* Honourable senators, when one senator has the floor, I think it is customary to let him speak, and if an honourable senator wants to ask a question he is, of course, free to do so. But in the present circumstances, and in order to have an orderly debate, I think we should allow the honourable senator who is on his feet to speak.

Senator Flynn: On the point of order, Mr. Speaker, if Senator Denis wishes to complain, I don't mind your coming to his rescue, but as long as he does not complain I think I am entitled to comment.

The Hon. the Speaker *pro tem:* Honourable senators, I am not coming to the rescue of any senator. I am here as Speaker of the House, and I have taken the Chair many times in the past. I am sure the honourable senator knows I am trying to be fair to both sides of the house.

Senator Flynn: It is not a question of being fair.

● (2030)

The Hon. the Speaker *pro tem:* I do not wish anyone to say that I am coming to the rescue of one senator on one side or the other. I simply wish to be fair to all senators.

[*Translation*]

Senator Denis: Honourable senators, I do not object to the Opposition leader interrupting me once in a while. He is attempting in vain to prove that he is right in opposing this bill. However, as we used to say he is against what? Grain for the birds? There is nothing in this bill which indicates that the federal government is pulling out as an equal partner. It contributed half of what was spent last year, plus 13 per cent. Who decides what the increases will be? The provincial governments do. Provincial governments are being told: No more blank cheques but we promise to pay half of what it cost last year, plus 13 per cent, if necessary. Who decides how much doctors, nurses and so on are to be paid? The provincial governments do. They stated themselves that the costs were quite high and a way had to be found to bring them down. Well, that is an argument for the provinces. They will be able to tell the doctors whether in Ontario or any other province: Do not ask for unduly exorbitant salaries as we are limited to 13 per cent; the federal government is going to pay half, plus 1.7 per cent for the increase in population.

Well, in recent years the increase never reached that percentage. It is our friends from the NDP, according to the honourable member for New Westminster, who state that the increase in expenditures in 1972-73 was 7.6 per cent; in 1973-74, 8.8 per cent; and in 1974-75, 6.6 per cent. This bill allows 13 per cent. However, those who oppose this bill ask that the government pay more than 13 per cent. To this you must add that following this bill the anti-inflation program came into effect, further reducing expenditures. I am speaking loud enough for the Leader of the Opposition to hear me; do not close your ears, you will understand like all the others because you are not in the position of a man who is not intelligent.

So, in the other place a representative of the Conservative Party, the honourable member for Athabaska, proclaims the necessity to restrict expenditures. He admits, as the provinces also do, that spending must be cut back. But people object to the methods. They say that there was no consultation. Well, since 1973, the Minister of National Health and Welfare has had 10 to 12 meetings with all the provincial health ministers in the country. He has travelled all over Canada and he called on them personally. When people say that he has not listened to consultations, well, consultation does not necessarily mean to approve the provinces' decisions. They used to have a blank cheque. They were told: Spend what you like and we shall pay half. They would be stupid to say that a 13 per cent limit is fine with them—this is normal. But following discussions with the provinces and the medical associations, many amendments have been suggested by the provinces and those associations, as well as by our Conservative friends in the other place. Now, the bill has been fully amended. The statements of Senator Smith (Colchester) regarding the statements made by the provinces, were made before the amendments to the bill. I am convinced that if the honourable senators on the other side asked the same question of the provinces now, they might change their mind. Even the president of the Medical Association said: We are not worried about the 13 per cent. We are not worried about the 10½ per cent. We are worried about what will happen in the future. Therefore, the president of the Medical Association says that this will not affect the efficiency of the services. So, there is no danger that increase in expenditures will be greater than the 13 per cent that has been promised.

Senator Phillips asked a few questions. I talked of moderation. I talked of planning. I talked of solutions for less expensive measures. He is asking me who is responsible for this. The provincial governments are responsible, honourable senators. They are completely free. They do their own administration. They have created their own organizations for medical services. They determine salaries to be paid, the number of people to be employed, and so on. The same applies to hospital insurance, which allows them to build the hospitals they want, and we pay half of the administration and other costs.

So we claim that we have reached the point where we must know how far the government is going. We are prepared to pay not only one half but we are now offering the 13 per cent which represent about $124 million more than last year. It is hardly the attitude of a government that decided to stop paying its share. Furthermore, in the legislation you will find the new insured coverage that will be added to the existing services. Consequently, it cannot be said that the government will no longer pay its share as it is ready to increase it.

I wonder if I should continue.

Senator Flynn: It would be futile.

Senator Denis: Someone mentioned medical care for elderly people, yet everybody knows that old age assistance does not come under this bill.

And then convalescents, another issue raised by Senator Burchill and Senator Phillips. They should know that nursing homes are covered by hospitalization insurance and that it does not cost one red cent to Canadian citizens to be admitted to nursing homes.

Of course, anyone short of arguments strikes at another piece of legislation and says "We forgot to mention elderly people, but there is other legislation for them". They say,"We forgot to speak about convalescents, but there is other legislation for them".

It is a measure that reduces costs, and the provinces were notified in advance so they would not be taken by surprise. Many things have been suggested. For instance, they urge the provinces to enact legislation to compel drivers to wear safety belts. I notice that the honourable Leader of the Opposition is laughing. And yet Australia did just that and automobile accidents have diminished by 25 per cent. So if the honourable senator is afraid to pay more than 13 per cent he should have his safety belt on.

● (2040)

[*English*]

The Hon. the Speaker *pro tem:* It is moved by the Honourable Senator Denis, P.C., seconded by the Honourable Senator Bourget, P.C., that this bill be now read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tem:* Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tem:* Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tem:* In my opinion the "yeas" have it.

And more than two honourable senators having risen.

The Hon. the Speaker *pro tem:* Please call in the senators.

● (2050)

Motion of Senator Denis carried on the following division:

YEAS

HONOURABLE SENATORS

Argue
Austin
Basha
Benidickson
Bonnell
Cameron
Carter
Connolly (Ottawa West)
Côté
Croll
Davey
Denis
Deschatelets
Eudes
Fournier (Restigouche-Gloucester)
Fournier (de Lanaudière)
Godfrey
Goldenberg
Hayden
Lafond
Laird
Lamontagne
Langlois
Lefrançois
Lucier
Macnaughton
McDonald
McElman
McGrand
McNamara
Molgat
Molson
Norrie
Perrault
Petten
Riel
Riley
Robichaud
Smith (Queens-Shelburne)
Sparrow
Stanbury
Thompson
Williams—43.

NAYS

HONOURABLE SENATORS

Beaubien
Choquette
Flynn
Fournier (Madawaska-Restigouche)
Grosart
Haig
Macdonald
Manning
Phillips
Walker
Yuzyk—11.

The Hon. the Speaker *pro tem:* Honourable senators, I declare the motion carried.

Motion agreed to and bill read second time, on division.

CONSIDERED IN COMMITTEE OF THE WHOLE

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

Senator Denis: I move, seconded by the Honourable Senator Fournier (de Lanaudière), that the bill be committed to a Committee of the Whole presently.

Motion agreed to.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Macnaughton, P.C., in the Chair.

Pursuant to rule 18 of the Rules of the Senate, the Honourable Marc Lalonde, P.C., the Minister of National Health and Welfare, was escorted to a seat in the Senate chamber.

● (2100)

The Chairman: Honourable senators, the Senate is in Committee of the Whole on Bill C-68, to amend the Medical Care Act.

Shall the title of the bill be postponed?

Hon. Senators: Agreed.

Senator Flynn: I believe the Minister of National Health and Welfare has a statement to make. First, however, I would wish him a very warm welcome to this house. Perhaps he will find it a desirable haven after all the troubles he has gone through, and is likely to go through, in the coming months.

If the minister has a statement to make at this time, we would be pleased to hear him.

Hon. Marc Lalonde (Minister of National Health and Welfare): Mr. Chairman, I do not have a formal statement to make. This bill has been gone into extensively by the Senate and by the House of Commons. The Honourable Senator Denis has put forward the government's view respecting the bill.

I thank you for the opportunity of appearing before the Senate, and I thank you for your warm welcome, Senator Flynn. I shall be very happy to answer any questions you may have on this particular bill while you are studying it clause by clause. Therefore, my words at the present time will be limited to a very sincere thanks for the opportunity to appear before the Senate.

The Chairman: Clause 1.

Senator Phillips: Senator Denis, when introducing Bill C-68, met with a very cool reception from the provinces. I would like to begin by asking the minister if he would give us the rationale of the bill, and tell us how many provinces requested introduction of Bill C-68 and how many provinces are opposed?

Hon. Mr. Lalonde: Mr. Chairman, the rationale for Bill C-68 is pretty straightforward. This bill aims at putting a ceiling on the rate of increase of medical care cost-sharing by the federal government. This was put forward as part of the budget of June 1975, presented by Mr. Turner at that time, as part of the various measures the federal government put forward as expenditure restraint measures.

The fact is, while the rate of growth of medical expenditures in Canada had been roughly on target since the inception of the Medical Care Act, the developments of the last year or two gave rise to serious concern as the rate of growth seemed to be going up very substantially. It appeared that it was necessary to take steps to try to contain the rate of growth in this respect.

I have had the opportunity of having several discussions with my professional colleagues in this respect, and there was a general consensus that steps should be taken to try to reduce the rate of growth of those expenditures, whether by having a better control on the immigration of physicians into Canada, by trying to see to it that the rate of growth of the utilization of services by citizens is reduced, or simply that other measures of a preventive nature be taken to try to contain the rate of growth.

Measures have been taken in the immigration area to try to reduce the immigration of physicians to this country so as to adjust it to the actual needs of the people.

Secondly, measures of a preventive nature have been taken. As an example, some provinces have enacted legislation dealing with seat belts, or reducing the speed limit on highways, which, as the experience of Ontario has shown, has had a substantial impact on reducing the number of injuries and deaths on the roads in the provinces which have enacted and passed such legislation. As you may know, the Government of Ontario has reported a reduction of between 25 and 35 per cent in deaths and serious injuries in car accidents following the introduction of the seat belt legislation.

Lastly, there were financial measures to be taken. This particular bill is part of the financial measures taken to try to maintain the rate of growth at a reasonable level. As you will see, this bill provides for an increase for the current year of 13 per cent per capita. If you add a rate of growth in the population of about 1.6 per cent, on a gross basis the total rate of increase would be roughly 14.5 or 14.6 per cent for this particular year. We find this to be a reasonable level of rate of growth. When we compare this to the rate of growth expected for the year 1975-76, we can expect that the rate of growth will be roughly 14.7 per cent on a gross basis. Therefore, we think that 14.6 per cent for this current fiscal year is a reasonable level which should ensure that citizens of Canada will get all the adequate medical care they need, and at the same time the provinces and citizens in general will be given a warning that medical care should not be abused, and we should make sure that the type of settlements with the medical profession are also set at a reasonable level. This is roughly the purpose of this bill.

As far as the concurrence of the provinces is concerned, they were generally opposed to this particular bill—substantially more at the beginning than at a later stage. Following my meetings with the provinces, amendments were made to meet some of their most serious objections. I have also had meetings with the Canadian Medical Association. We have made amendments so that after the second year the rate of growth of medical care expenses will be determined by order in council which can be debated by the House of Commons and the Senate.

On first reading the bill imposed a ceiling of 8½ per cent per capita for the third and subsequent years. So we have introduced more flexibility, and the rate of growth on a gross basis will be 14.5 per cent this year, and roughly 12 per cent next year. Once more the provinces have not agreed to this step, and if I had been in their shoes I would have taken the same stand. It is obvious that if you have a blank cheque, you are going to object if someone comes around and says, "You don't have a blank cheque any more; your rate of drawing on this bank account is going to be allowed to grow only at a certain rate every year." I would object; I would certainly prefer a blank cheque. But we think this is part of the measures for general financial restraint that the country wants governments to resort to, and, secondly, it is also part of the means—it is one way—of ensuring that the rate of growth of health costs in this country will be maintained at a reasonable level.

● (2110)

So, Mr. Chairman, that is, first, the rationale for this bill and, second, the situation with regard to the provinces.

Senator Flynn: Mr. Chairman, I was interested in what the minister said. I couldn't believe my ears when he mentioned the introduction of safety belts, because when I heard Senator Denis mention the same thing I thought he was merely joking. It seems to me the result of the mandatory use of safety belts is that there are fewer deaths, but more people injured. It is also my understanding that the dead do not cost much under the medicare program, and that injured people cost more. Therefore, I would suggest to the minister that it is hardly an argument in support of restraint in medical care expenses to say that we have adopted the use of safety belts. It seems to me that that is entirely irrelevant to the situation.

Hon. Mr. Lalonde: I regret that I have to disagree with Senator Flynn on this point. I would draw to his attention the statistics of New Zealand, Australia and Europe, where

seat belt legislation has been in effect for a few years, and to the more recent experience of Ontario, where, if I remember well, not only the number of deaths has been reduced by about 30 per cent but the number of injuries has also been reduced substantially. That has substantive implications in direct health costs, not to count all of the obvious indirect costs in terms of insurance, in terms of rehabilitation and sometimes in terms of social assistance in respect of people who are handicapped for life. The statistics will show that there is an appreciable reduction in serious injuries from the wearing of seat belts.

Senator Flynn: I will not discuss the necessity of wearing seat belts, but I would say that the reduction of deaths is not relevant to medical care costs. That is the only point.

Hon. Mr. Lalonde: But certainly the reduction of injuries, both serious and less serious, is a significant factor. Again, the latest statistics from Ontario do support that proposition. There is no doubt that legislation of this nature will have an appreciable impact on total health costs.

Senator Flynn: Then I would ask the minister whether the increase in the cost of medicare in respect of all provinces has been the same all through Canada, or has it increased more in some provinces than in others? Would the minister care to give us some figures on that?

Senator Denis: In the meantime, may I say that—

Senator Flynn: Excuse me, but is that the new minister?

An Hon. Senator: He was.

Senator Denis: If I may, I just want to give you some statistics which you might find relevant. With respect to injuries resulting from accidents, in 1973 the number of injured people was 223,000; hospital fees amounted to $200 million, and medical care came to $100 million.

Senator Flynn: That is not an answer to my question.

Senator Denis: The point is that if we can cut those expenses by 25 per cent, that means it will be $75 million instead of $100 million, and $150 million instead of $200 million. And that is only one preventive measure out of the many we can take.

Senator Flynn: Would the minister now care to reply to my question?

Hon. Mr. Lalonde: Surely. I will do so with great pleasure, Senator Flynn. I would be quite happy to leave with the Senate a table showing the figures over the last few years, but you might be interested in the figures for the last year, 1975-76. There may be some adjustments required when the final settlements are made with the provinces, but they will be minimal. It is clear that the rate of increase varies from province to province appreciably in a single year. But what you have to realize is that those adjustments, those rates of increase, are related to settlements with the medical profession in that particular year.

Quebec, for instance, has not had a settlement with the medical profession for about five or six years. Ontario has had settlements every couple of years. So if there is a settlement in Quebec this year, as is likely, you will see a sudden jump in Quebec for this year while relatively the rate of increase will have been more gradual. So it is dangerous to take a single year and say, "Look; that province is not controlling its costs." You have to take the trend over a period of three, four or five years, and then you can decide whether a province is letting its costs rise more than others.

Senator Flynn: You are going to prove my point.

Hon. Mr. Lalonde: But if you look at the figures for this year, for 1975-76, you see that the national average increase will be about 14.7 per cent. The percentage increases across the country are as follows:

Newfoundland,	24.6 per cent.
Prince Edward Island,	15.2 per cent.
Nova Scotia,	23.0 per cent.
New Brunswick,	18.5 per cent.
Quebec,	10.7 per cent.
Ontario,	12.7 per cent.
Manitoba,	11.2 per cent.
Saskatchewan,	18.8 per cent.
Alberta,	18.3 per cent.
British Columbia,	23.8 per cent.
The Yukon,	20.3 per cent.
The Northwest Territories,	15.1 per cent.

Senator Flynn: So the lowest increase is in Quebec, I understand.

Hon. Mr. Lalonde: Quebec is 10.7 per cent.

Senator Flynn: Where there is not yet compulsory use of safety belts.

Hon. Mr. Lalonde: As I said, the figures for a single year do not prove anything.

Senator Flynn: That is what I wanted you to say.

Hon. Mr. Lalonde: You have to look at the rate of increase. Well, I said it before you asked, Senator Flynn. You have to look at the trend over a certain number of years.

Senator Benidickson: Mr. Chairman, the minister indicated that the thrust of this bill is to remove some blank cheque operations. All of us, I think, will have read in the last few days that two psychiatrists in the province of Quebec were paid large amounts in the year under the medicare plan. One was paid $600,000, and the other more than $500,000. Yet I am surprised to learn that, as the minister stated, there has been no increase in the allowable fees in the province of Quebec for about five years. That is in contrast to the more frequent increases in the approved rate schedules in other provinces, particularly Ontario. Do psychiatrists have a higher rate schedule than other specialties in the medical profession, and does that account for these two very large earnings in this particular specialty?

Hon. Mr. Lalonde: Senator Benidickson, when I was in the practice of law I had the honour and privilege of having psychiatrists for clients, and I feel tonight that I

have to come to the defence of my former clients in the sense that the name "psychiatrist" is being used in vain in some papers these days, because these cases do not appear to be cases of psychiatrists, but of—

Senator Hayden: Physiotherapists.

Hon. Mr. Lalonde: I am told the scientific name is "physiatrists". They are medical doctors who use physiotherapists, who hire physiotherapists, and what is happening, I am told—and I do not want to slander that other side of the profession—is that these people are doctors who specialize in treatment for rehabilitation purposes. They have clinics, and they hire physiotherapists, and they supervise the work of those physiotherapists. They are running a very efficient business, if I may use the expression, and this is how we end up with the figures you have mentioned.

● (2120)

Senator Benidickson: They are big factories.

Hon. Mr. Lalonde: In my ministerial capacity I will not use any other adjectives than the ones I have already used. I know the government of Quebec is concerned about the matter, and there are discussions going on with the medical profession about these particular types of situations. Once more, however, I am told that this is not the case with regard to the psychiatrists, who are being paid by the hour. I cannot imagine any psychiatrist working that much.

Senator Grosart: I wonder if I could ask the Honourable the Minister to explain what appears to be a discrepancy in his statement that the rate of increase in the post-medical costs has been roughly on target since the inception of the bill, while apparently the assumption in the bill is that the provided rate of increase will be almost exactly the same for next year. Is there an assumption of much greater increases if the bill is not made law, and if so, could the minister give us the figures on both sides, that is, with the bill and without it?

Hon. Mr. Lalonde: I could not give you this type of information, because it would be very hypothetical in that it would refer to what would have happened if there had been no bill. The fact is that over the last few years the rate of increase has been roughly on target, and if you look at the figures you will find that in 1973-74, for instance, it was about 7.2 per cent, while in 1974-75 it was about 6.6 per cent. With regard to last year we were very concerned about the rate of increase in the figures. As a matter of fact, our first forecast for 1975-76 was about 16 per cent, almost triple that of the previous year. It was at that time that we foresaw very substantial increases coming that were really out of proportion, we felt, with what was appropriate. There is no doubt in our minds that the fact that this measure was announced in June of 1975 had an appreciable impact on costs for this year. It is hard to differentiate with regard to a single event, but this bill plus, obviously, the measures announced by the government in October of 1975, has had an appreciable impact on the type of settlements which have been made with the medical profession in the various provinces. I have this on very good authority, namely, from some of my provincial colleagues themselves who were in negotiation at the time and who recognized that this gave them a stronger hand in negotiating with the medical profession. So our forecast was 16 per cent. The mere fact that the government announced its intention to present the bill, that the bill was then before the House, and that it appeared likely to be passed by the House, already has had an impact, in our view, on the total costs for 1975-76, and we have little doubt that it will have an impact on the costs for next year.

Senator Flynn: Has it had an impact in the province of Quebec in the hospitals?

Hon. Mr. Lalonde: This bill has nothing to do with hospitals. This is a medical care bill, dealing solely with an amendment to the Medical Care Act. If you know the situation in the province of Quebec, you will realize that the problem has not been with the medical profession this year.

Senator Flynn: I know; but what about the rest?

Hon. Mr. Lalonde: Medical care has nothing to do with the rest. In hospital care, we are continuing to cost-share until 1980.

Senator Grosart: Is the minister saying that until the last operating year of the Medical Care Act it was on target, and then ceased to be on target? If so, when was that, roughly? In what year?

Hon. Mr. Lalonde: Our concern started, really, with the year 1975-76. It was during the year 1974-75 that we could foresee this type of development taking place.

Senator Manning: Mr. Chairman, may I ask the minister what the aggregate joint expenditure was under the Medical Care Act for 1975, or the last year for which figures are available? And what was the actual final percentage of the total borne by the federal treasury?

Hon. Mr. Lalonde: For Canada the total was $1,677,670,000, and exactly half of this sum would be the federal share.

Senator Macdonald: I notice in the figures given that the average national increase was 14.7 per cent, yet for the province of Nova Scotia it was 23 per cent. Could you tell us if that was an exceptional year, or has that been the trend all along?

Hon. Mr. Lalonde: It was a very exceptional year for Nova Scotia. It was 16.3 the previous year, and 7.4 in 1973-74. It was 9.8 in 1972-73, and 8.6 in 1971-72.

Senator Macdonald: Is there any explanation of the increase for last year?

Hon. Mr. Lalonde: There were two factors. One is that there have been fee settlements with the medical profession, which explains part of this increase. The other factor is an increase in the number of physicians in the province to provide better service to the population.

Senator Phillips: Honourable senators, one of the criticisms of the provinces is that in the future, in the year 1979 in particular, it will cost some of the so-called "have-not" provinces additional money. Could the minister give us a projected percentage of the various losses to the provinces, and tell us what provinces are affected?

Hon. Mr. Lalonde: I could not give such figures for 1979-1980 for the good reason that the federal government has not decided yet what type of rate increase it will allow

for its share of the cost. You will realize that this bill provides that the government is free not to impose a ceiling on the rate of increase. To try to give you an answer in that respect, therefore, would be dealing very much in hypotheses. I realize that the argument has been raised as to whether the poorer provinces would end up being the bigger losers under this proposal, but I must say that there is nothing in this bill which justifies such a conclusion. The rate of increase that is being provided for by order in council applies on the national per capita cost, so that obviously, if a province were to have a very high rate of increase it might find itself outside the national average; but whether you are a poor province or a rich province, there is no difference at all as to what will happen, in effect. This bill is no more slanted against the less advantaged provinces than it is against any other group. It applies in the same way all across the board, and there is no reason why the poorer provinces should end up in a more difficult situation because of this particular bill.

Senator Molson: Mr. Chairman, I wonder if I could ask the minister about something he said a little earlier. He said that some of the provinces have not settled for some time with the profession, and in the case of Quebec, for perhaps five or six years. I would just like to ask him what effect this might have on the information and the statistics that are being used in this case. What exactly does it mean by not having settled with the profession, say, for five years?

● (2130)

Hon. Mr. Lalonde: It does not mean much in the sense that we have exactly the same statistics from every province every year. What happened is that Quebec had a pretty generous level of fees several years ago; in effect, at that time they were at the top level of average remuneration in Canada. They remained at that level for a few years because of the rate of increase of utilization of services. So they did very well. However, in the last couple of years the other provinces have caught up and some have even moved ahead. This is why there are negotiations at the present time to have a readjustment of fees. But it turns out that the average rate of remuneration of doctors in Quebec has compared very favourably with the average in the rest of the country over the last five years.

Senator Molson: Does this mean that a settlement has not been made with individual physicians, or has there been a settlement made subject to future adjustment?

Hon. Mr. Lalonde: Negotiations are now going on. Discussions have been going on over the last few months and a tentative agreement has been reached with the medical profession, both specialists and general physicians. A few months ago a suggestion for settlement was rejected by the general assembly of the two groups, but negotiations are still going on at the present time.

Senator Croll: Mr. Minister, when you speak of 50 per cent, that is a loose term. Is it not a fact that under the formula some of the provinces draw as high as 75 per cent or 80 per cent while others draw less? Would you mind giving us the exact amount?

Hon. Mr. Lalonde: I would be very pleased to do so. What you said is quite right. The federal government pays 50 per cent of the national per capita cost, and for the year

[Mr. Lalonde.]

1974-75 we paid 78.05 per cent of the cost in Newfoundland, 74.1 per cent in New Brunswick, 65.6 per cent in Prince Edward Island, 57.7 per cent in Nova Scotia, 59.3 per cent in Saskatchewan, 56.6 per cent in Manitoba, 53.2 per cent in Alberta, 48.8 per cent in Quebec, 47 per cent in Ontario and 45.3 per cent in British Columbia. So we are paying 50 per cent of the national per capita cost, and this means that if a province has a lower per capita cost than the national average, then that province gets a higher share. And this can go as high as 78.5 per cent as it did for the year 1974-75 in Newfoundland.

Senator Croll: Mr. Minister, how do you reconcile the fact that a province as rich as Alberta draws a higher percentage than a province like, say, Quebec? Can you explain that?

Hon. Mr. Lalonde: Yes, because they have managed to keep their costs for health services below the national average. The national average for 1974-75 was $64.92 per capita. Quebec happened to have a per capita cost above $64.92, and so it ended up receiving slightly less than 50 per cent. However, either because of lower levels of settlements for medical fees or because of a lower rate of utilization of medical services or because of a smaller number of physicians, Alberta ended up having a lower per capita cost and therefore could benefit from cost sharing at a rate slightly above 50 per cent.

So, as I said, this cost sharing is based on a national per capita average whether you happen to be a rich province or a poor province. If, for example, Newfoundland were to decide to have a very costly medical service, it would still receive only a share which would be lower than 50 per cent. So it is up to each province to try to keep a tight control on the cost of its medical services. It happens, as a matter of fact, that there is a substantial transfer of funds on this basis to lower-income provinces because in effect doctors in those provinces are receiving, sometimes, lower average fees or lower earnings generally. I must say that Newfoundland has a pretty high average level of earnings for individual doctors, but they have fewer doctors per thousand people than some other provinces and therefore their average per capita cost is lower than the national average.

Senator Flynn: It means that doctors receive the same amount, but if they happen to work more they receive more.

Hon. Mr. Lalonde: Well, they have fewer doctors per thousand people, and if you have fewer doctors and they are providing services to more people, in effect they will end up having an average level of earnings which will be higher than that in other provinces. That is the way the system operates.

Senator Carter: Mr. Chairman, I would like to ask the minister if he would translate these percentages into terms of extent and quality of services provided. He based his statement on the low average cost in a province, but the fact that a province has a low average cost could mean that the province is unable to provide the same standard of services as would be available in a richer province.

Hon. Mr. Lalonde: This is quite true. This is what I meant when I said that some provinces had a smaller number of physicians and therefore you could assume that

the quantity, if not the quality, of medical services available to the population would be smaller and thus the provincial per capita cost would be lower than the national per capita cost. But it would also mean that the services to the population would be lower or fewer.

Senator Flynn: Not necessarily lower.

Senator Phillips: I would like to ask the minister how a province such as Newfoundland, which is at the present time receiving, I believe, 78 per cent of the cost from the federal government, would be able to improve its standard of medical care and catch up with the other provinces under the terms of Bill C-68.

Hon. Mr. Lalonde: Mr. Chairman, I am afraid that I have to repeat what I said before. What we are basing our increase on under Bill C-68 is the national per capita average, so that if that average increases, we are going to cost-share 50 per cent up to 13 per cent per capita increase in the national per capita cost. If Newfoundland manages to keep its increase in cost to below 13 per cent, it will receive more than 50 per cent of its cost. If it goes above the 13 per cent level, it will be in the same situation as any other province which goes above the 13 per cent. There is no difference in that respect. Our estimate for 1976-77 indicates, or would tend to indicate, that there would be a very slight change either with or without the act, but it depends on the type of settlement that the Newfoundland government will make with its medical profession and what kind of measures it will take otherwise.

● (2140)

Senator Phillips: If I understand the minister correctly, he has projected costs for the coming year for the various provinces. What effect will Bill C-68 have on the percentages received by the four Atlantic provinces?

Hon. Mr. Lalonde: I hesitate to put specific figures on the record, because it depends very much on the type of settlements the provinces will wish to conclude with their medical professions and the type of measures they take. For instance, if they do as Ontario and Quebec did, not only enact seatbelt legislation, as Nova Scotia did, but proclaim it, as Nova Scotia did not, it might have an impact on health costs. If the four Atlantic provinces proceed—

Senator Flynn: Now, please.

Hon. Mr. Lalonde: There would be an appreciable reduction in health costs for the next year. Even assuming that they were to do nothing of a preventive nature, we estimate that the worst would be a difference of one to two per cent from the present contributions.

Senator Croll: Mr. Minister, I do not quite understand the formula, and perhaps others do not, as it is a little difficult. I am not crying for Ontario, which can cry enough for itself, but it appears to me that although we have the greatest expenditures we receive less from the federal government. Am I wrong in that?

Hon. Mr. Lalonde: Would you please restate that, otherwise I believe we would both become confused before long.

Senator Croll: I first admitted that I do not understand the formula. I know what it contains, but I do not know how to relate it to the situation. It strikes me that with respect to the richer provinces—and I will take the example of Ontario because it receives less than 50 per cent, or 49 per cent—

Senator Flynn: It is 48 per cent.

Hon. Mr. Lalonde: It is 47 per cent.

Senator Croll: Senator Flynn, you are wrong again.

Senator Flynn: If I am never more wrong than that I will not worry.

Senator Croll: It strikes me that the province which provides the greatest service and spends the largest amount of money for the most people receives the least amount of money under that formula.

Hon. Mr. Lalonde: You must mean in percentage terms?

Senator Croll: That is correct.

Hon. Mr. Lalonde: It is because it has a large number of physicians per hundred thousand population; the largest number of physicians per 1,000 people being in Ontario, and it has had a pretty high level of fees. Therefore, quite understandably, the net result is that that province ends up with a per capita cost above the national average of approximately $65. If Ontario has a per capita cost of $70 compared to the national average of $65, the federal government will pay to the Province of Ontario $32.50 per capita. That does not amount to 50 per cent of $70, which is the hypothetical cost for 1974-75. So various factors enter into the reasons for the higher cost in a province—a greater number of doctors, a higher level of fees, and sometimes a higher rate of utilization of medical services. These are the three major factors affecting the total cost.

Senator Flynn: Mr. Chairman, I would like to pursue that question a little further. As Senator Croll mentioned, the provinces have really no interest in having more doctors and providing better services if they are to receive a lesser percentage of the cost.

Hon. Mr. Lalonde: This depends on the situation in each province. However, obviously if there is a larger number of doctors the net result is that the average per capita cost to that province will be even higher than the national average. In the case of a province with below the national average number of doctors, obviously there will also be an effect on the percentage received. However, if a province keeps itself within the national average it will receive 50 per cent.

Senator Flynn: But if the Province of Newfoundland could recruit more doctors it would have to pay more out of the provincial treasury.

Hon. Mr. Lalonde: True. Obviously, it would receive less than 78 per cent of its share.

The Chairman: Shall clause 1 carry?

Senator Phillips: The sponsor of the bill stated that there had been 10 or 12 meetings of the federal and provincial health ministers to discuss the new formula to be used. I presume that at the conclusion of 10 or 12 meetings you have an indication of the various factors to be taken into consideration under clauses 1, 2 and 3. Could the minister indicate to us the factors to be used in determining the amount set by the Governor in Council?

Hon. Mr. Lalonde: Various factors will obviously be taken into account. To begin with, the rate of inflation; secondly, the expected rate of settlements with medical professions; and the comparative rates of earnings between

the medical and other professions. These are the various factors that will be taken into account by the government of the day in compiling the order in council.

Senator Williams: Mr. Chairman, I would like to ask the minister the effect this amendment will have, if any, on the Indian health services?

Hon. Mr. Lalonde: It will have no effect on the service provided directly by the federal government to the Indian people, for the good reason that we pay 100 per cent of that cost.

Senator Flynn: It would be difficult to pay more.

Hon. Mr. Lalonde: These costs are adjusted every year on the basis of need and available funds.

Senator Austin: Mr. Chairman, in the first few moments of the minister's reply to Senator Phillips' first question he referred to a rate of growth of, I believe, 14.6 per cent and 12 per cent in the coming two years. I wonder whether that is net or gross in respect of inflation?

Hon. Mr. Lalonde: First of all, the figures I used of 13 per cent and 14.6 per cent apply only to this year, the difference being added for population growth. So it is 13 per cent net and 14.6 per cent gross for this particular year. For next year the figure is 10.5 per cent, and we again expect a 1.5 per cent increase in population, for a gross of about 12 per cent.

● (2150)

If I may return to the question raised earlier with regard to the Indians, I am reminded that the Indians are being covered under provincial health insurance plans and they would be in exactly the same situation as other citizens with regard to services. We are talking in terms of services being provided directly by the federal government.

Senator Croll: My colleague, Senator Benidickson, asked a question with respect to large sums of money going to some physicians. I do not know who released that figure, but in the minds of Canadians medicare is certainly associated with the federal government in Ottawa. Did the minister not consider it important to immediately offer some explanation to all those groups of people who were involved.

When the announcement was made, there should have been an immediate explanation. The harm has now been done, and no matter what we say, or what the minister says, a great many people believe it is an actual fact that some physicians drew fantastic sums of money. In my opinion, it was the duty of the department to offer an explanation, particularly in Quebec and here in Ottawa.

Hon. Mr. Lalonde: In effect, Senator Croll, we do not even have figures on the earnings of many doctors, except through Revenue Canada, and you are aware of the rule of confidentiality in this respect. Those figures are in possession of the various boards administering medical and hospital care in the provinces. The figures are released by the boards when the statistics are available, and therefore I hear of those figures, like yourself, when I read them in the press.

I will raise the matter with my provincial colleagues and will bring your remarks to their attention. I will suggest that they take steps to ensure that those figures are put in their proper context. I must admit that there would appear to be obvious cases, and it is pretty difficult to justify the type of fees which some individuals receive. As a matter of fact, I believe that in both Ontario and Quebec there have been prosecutions under the act for abuses involving medical fees.

The Chairman: Shall clause 1 carry?

Senator Grosart: I should like to ask the minister a question about the change in the ceiling. From the time of the statement in the July budget, the ceilings proposed for the first two years were, I think, 13 per cent and 10.5 per cent, and 8.5 per cent for all subsequent years. My understanding of the bill is that this has now been changed. There are new formulas for the first two years, and subsequently the determination will be made, again unilaterally, by the federal government as to what the rate will be following the fiscal year 1976-77.

Perhaps the minister would care to comment on the almost universal objection of the provinces to the announcement, and to the bill, which, they say, was introduced unilaterally. Over and over again we find this word "unilateral". That was their objection. Perhaps the minister would care to comment on why it had to be unilateral, if it was.

Secondly, the unilateral principle is now incorporated in the bill for the years subsequent to 1976-77, despite the fact that in the original announcement it was a set rate of 8.5 per cent for those subsequent years, and which, from the point of view of the provinces, would seem to be much more satisfactory than to have to rely on a unilateral federal government decision in which obviously they had very little confidence.

Hon. Mr. Lalonde: In reply, there are several points I would like to raise. First, there has been no change in the figures for the first two years. They are the same as they were in the original bill. The honourable senator is right that in terms of subsequent years there has been a change to the order in council proposal, but that change was made after consultation with the provinces, which I toured in September 1975.

The reason why there was no consultation previous to the announcement in June 1975 was that this was part of the budget measures introduced by Mr. Turner. As it was part of the budget, I was not in a position, nor was he, to embark on intensive consultations beforehand. I took it upon myself to visit the various provinces in the fall of 1975. Following those visits, there were meetings with the Canadian Medical Association, and there was strong objection to the set figure of 8.5 for all subsequent years, because we did not know what to expect in those years. Therefore, I agreed to recommend to cabinet and to the house that the bill be amended so that changes could be made by order in council, and that no set figure be incorporated. Again, that followed my visit to the provinces, when all objected to the set figure.

The federal government may decide not to use this privilege in the future; and, secondly, it will be seen that in the bill itself there is provision for consultation between the provinces and the federal government before making such a decision. It is possible for members of the House of

Commons and the Senate to have a debate by resolution on any order in council, which can be revoked by either house if it is found to be unsatisfactory.

There are, we believe, quite a good array of checks and balances in this particular proposal. However, quite correctly, in the end the federal government will be the one to decide, and for that I have no apology to offer. The federal government uses taxation as a means to obtain its dollars, and it should be the one to make the decision as to whether or not any increase is adequate.

Senator Grosart: May I ask a supplementary to my earlier question? In view of the statement made by the minister that the reason the federal government took action unilaterally in this case is that the principle which this bill implements was a budget measure, would this not suggest to the minister an excellent reason why fundamental changes in, or amendments to, existing bills, particularly those dealing with the social field, should not, prior to their introduction, be made a budget matter? Perhaps he will explain why it was the Minister of Finance who made this announcement, putting this matter beyond the point of consultation before it was introduced?

Hon. Mr. Lalonde: It is obviously a matter for the government of the day to decide in accordance with each circumstance. I mentioned earlier that the announcement was part of a series of budgetary restraint measures, and as such they were included in the budget. I would remind the Senate that the budget sometimes contains also good things for the provinces, such as substantial increases in equalization payments and social programs. Therefore, I do not think one would want to argue too strongly to the effect that no measure having to deal with the social or financial field should be in the budget. It plays both ways, and generally in the past it has tended to play pretty much in favour of the provinces.

Senator Grosart: But it will still mean the continuation of this unilateral decision-making process, which appears to be the main objection of the provinces, not merely in connection with this bill but with almost every matter of federal-provincial relations. It is a "take it or leave it" approach, which the federal government has so often taken, and which belies the concept of consultation, as the provinces have said many times. It is all very well to say "consultation," but if the federal government has made up its mind, or restricted its position, surely it is not consultation in the normal sense.

● (2200)

Hon. Mr. Lalonde: I have not had the political experience of so many of the members of this house. I have had some experience as a senior civil servant and, over the last few years, as a politician in a department which involves substantial and continuing contact with the provinces. In that time, it has been my experience that the provinces will generally agree that consultation has taken place if a conclusion is reached that is satisfactory to them, or which corresponds to their views. On the other hand, if we reach a conclusion after extended discussion that is different from the view of the provinces, then we are faced with the general outcry that there has been no consultation.

I do not feel one should get too carried away by the statement from the provinces that there has been an absence or a lack of consultation. I readily admit that in this particular instance, this particular proposal was not discussed with the provinces before being introduced in the budget. On the other hand, both myself and my predecessor held extended discussions with the provinces before this measure was introduced on ways to better contain the rate of growth of health costs. Those discussions and consultations, unfortunately, did not prove successful, as a result of which the federal government had to bite the bullet, which is what the Minister of Finance did in June 1975.

Senator Grosart: You lowered the boom.

The Chairman: Clause 1. Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Clause 2. Shall clause 2 carry?

Senator Phillips: Honourable senators, clause 2, according to the definition, is a reference to a class of new insured services. I wonder if the minister could indicate to the committee what services are being considered under this definition.

Hon. Mr. Lalonde: We have made a proposal to the provinces for extended cost-sharing. In case honourable senators might think we are only interested in cutting cost-sharing with the provinces, I should point out that we are very interested in improving the efficiency of health services. We have made proposals to the provinces to extend cost-sharing under the present legislation to services which are not covered at the present time—what we call lower cost alternatives—in exchange for measures taken by the provinces to reduce higher cost services, such as hospital and medical care itself.

We could do this under the Medical Care Act. We have made a specific offer to the provinces to commence cost-sharing in respect of a number of services which would include, first of all, home care programs including organized short-stay home care and catalytical home care programs; secondly, community mental health services; and thirdly, ambulatory health services. These services could become eligible for cost-sharing with the provinces on the 50 per cent basis under the Medical Care Act if the provinces were to agree to put forward a five-year program of reduction in the rate of growth of high cost alternatives. These discussions are presently taking place with the provinces. Practically all of the provinces have put forward their proposals in this respect.

We are also discussing with the provinces the possibility of a global health formula which would provide for a transfer of tax points and grants to the provinces. This offer was made in June. It is on the table at the present time, and I am expecting answers from the various provinces.

These services, which would come under the Medical Care Act for the first time, would not be included in the national per capita average but each class would have a separate national per capita which would apply only to the provinces agreeing to come in with the particular program. Otherwise, a province not providing the service would end up receiving a financial benefit for a service it was not providing to its citizens. That is the reason for this particular clause.

Senator Croll: Would this include nursing homes?

Hon. Mr. Lalonde: Nursing homes would not be included under the Medical Care Act, but we could have nursing home intermediate care under the Hospital Insurance and Diagnostic Services Act. This is also eligible under our extended cost-sharing proposal.

Senator Phillips: Senator Croll referred to nursing homes, and both Senator Burchill and I raised questions on this matter during the debate on second reading. It is my understanding, Mr. Minister, that certain provinces pay all of the cost to the patient under the Hospital Insurance and Diagnostic Services Act.

Hon. Mr. Lalonde: For nursing homes?

Senator Phillips: Yes. In other provinces, there is a cost to the patient. If the patient is entirely dependent on his old age pension and GIS, the province pays a considerable portion of the cost. On the other hand, if the patient has been fairly successful financially, and has managed his affairs in such a way that he has accumulated a nest egg for retirement, the province then collects from the patient. I am wondering why nursing homes could not be considered under the new insured services.

Hon. Mr. Lalonde: We have offered, under the extended cost-sharing proposal, to cover nursing home intermediate care and converted mental hospitals under the Hospital Insurance and Diagnostic Services Act. The list I have given you is the list that will be covered under the Medical Care Act. Nursing homes and converted mental hospitals would come under the Hospital Insurance and Diagnostic Services Act. We have made that offer to the provinces. It is now up to the provinces to decide whether they want to make use of it.

Senator Phillips: I appreciate that you have made an offer, Mr. Minister. Could you give us some indication of its terms?

Hon. Mr. Lalonde: It is very simple; the offer is presently on the table. We have informed the provinces that we are ready to commence cost-sharing the day after agreement is reached. This offer has been made over the last year and the provinces are still considering it.

Senator Croll: In respect of hospital care, are you not tied until 1980? What room is there for change?

Hon. Mr. Lalonde: There is no necessity to amend the act. We can do it by order in council under the act as it stands at the present time.

Senator Phillips: I have one further question regarding nursing homes, Mr. Chairman. I do not believe the minister gave the percentage in respect of the proposed cost-sharing. Is it that the federal government would pay 50 per cent, or is it on the same formula as medicare.

Hon. Mr. Lalonde: Nursing homes and converted mental hospitals would be on the same formula as hospital insurance, which is 25 per cent national average and 25 per cent actual cost in the respective provinces. It is not exactly the same formula as medicare, which is 50 per cent of national average.

The Chairman: Senator Greene.

[Mr. Lalonde.]

Senator Greene: Mr. Minister, how does that formula enable what many members of this chamber have been concerned about, namely, the continuation of national standards? Being from Ontario, I have no difficulty. Ontario can well afford its portion. How does this formula enable New Brunswick, Prince Edward Island, or Terre-Neuve to participate to the same degree as Ontario, Colombie-Britannique and Alberta, which are the rich provinces? Can you help me with respect to that?

Hon. Mr. Lalonde: Bill C-68 does not change the basic formula for cost-sharing from what it is at the present time. It simply puts a ceiling on the rate of increase of the national per capita. So that, in effect, the basic standards that are presently provided under the Medical Care Act remain. The lower income provinces will continue for a good while yet, I am sure, to receive much more than 50 per cent federal sharing of their services. As I said, Newfoundland got about 78 per cent of the total cost in 1974-75, and we expect that there will at best be a slight decrease in that percentage for the next few years.

● (2210)

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Senator Phillips: The minister stated that both the House of Commons and the Senate would have the opportunity to debate regulations under the clause dealing with the coming into force of the orders in council. My interpretation is considerably different. The House of Commons, on the request of 50 members, will have an opportunity to debate the regulations. The Senate will then be limited to approving a motion of the House of Commons. The clause provides no opportunity for the Senate to take an initiative in dealing with the regulations passed by order in council. I presume there is a specific reason for this, and I was wondering if the minister could explain the reason for it.

Hon. Mr. Lalonde: You are quite right, Senator Phillips. I am sorry if I misled you in my previous statement. The House of Commons has the initiative, on the request of 50 members. This provision is taken directly from another bill passed by Parliament earlier this session. It is practically the same, I believe. It is, in fact, based on the Anti-Inflation Act, which has a similar provision. This is the information I have here.

Senator Grosart: It could be a bad precedent, too.

Hon. Mr. Lalonde: It has been approved by Parliament, so I would not dare pass comment on the will of Parliament.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall the title of the bill, an act to amend the Medical Care Act, carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

Hon. Mr. Lalonde: May I thank the members of the Senate for their courtesy in having me here tonight.

Senator Perrault: Honourable senators, I know that I express the view of all senators when I extend my commendation to the minister for coming here this evening and for being helpful and cooperative by way of explaining the clauses of the bill before us. Mr. Minister, we in this place have a responsibility to attempt to improve and initiate legislation. As you know, we take our responsibilities very seriously, and we want to thank you for assisting us in the process this evening.

Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tem:* Honourable senators, the sitting is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Senator Macnaughton: Mr. Speaker, the Committee of the Whole, to which was referred Bill C-68, to amend the Medical Care Act, has considered the said bill and has the honour to report the same without amendment.

THIRD READING

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

Senator Denis: I move that the bill be read the third time at the next sitting of the Senate. There is no hurry.

Motion agreed to.

ADJOURNMENT

Senator Greene: Before the motion for adjournment is put, may I draw to the attention of the Senate that an unrepentant and unreformed socialist, the Honourable Senator Forsey, is the only one formally dressed here. I hope that he is not falling into the trap of a former socialist, Ramsay MacDonald. I think my favourite novel in the English language is *Fame is the Spur* by Howard Spring, which shows how Ramsay MacDonald fell into the trap, even though he was a socialist, unreformed and unrepentant like our dear friend, of loving the trappings of office more than he did his socialist background. I hope our dear friend has not fallen into the trap of *Fame is the Spur.*

Senator Forsey: At all events, honourable senators, I have not helped to form a coalition government with my enemies, and I have not accepted the Order of the Garter.

The Senate adjourned until tomorrow at 2 p.m.

29555—99½

THE SENATE

Wednesday, July 14, 1976

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

Prayers.

DOCUMENTS TABLED

Senator Perrault tabled:

Report of the Textile and Clothing Board, dated May 12, 1976, to the Minister of Industry, Trade and Commerce, pursuant to section 19 of the Textile and Clothing Board Act, Chapter 39, Statutes of Canada, 1970-71-72, respecting textured polyester filament yarn.

Report of the Tax Review Board for the year ended December 31, 1975, pursuant to section 17 of the Tax Review Board Act, Chapter 11, Statutes of Canada, 1970-71-72.

Copies of Report of the Commission of Inquiry into events at the British Columbia Penitentiary June 9 to 11, 1975 (Chief Justice John L. Farris of the British Columbia Supreme Court, Chairman), dated September 1975, issued by the Department of the Solicitor General.

Copies of an Agreement between: the Government of Quebec and The Société d'Énergie de la Baie James and the Société de Développement de la Baie James and The Commission Hydro-Électrique de Québec (Hydro-Québec) and: The Grand Council of the Crees (of Quebec) and The James Bay Crees and The Northern Quebec Inuit Association and The Inuit of Quebec and The Inuit of Port Burwell and: The Government of Canada, dated November 11, 1975 and amendments thereto dated December 12, 1975.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Senator Langlois, with leave of the Senate and notwithstanding rule 45(1)(a), moved:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit while the Senate is sitting today, and that rule 76(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Senator Flynn: Honourable senators, I would inquire of the chairman whether a fixed time has been set. I understand it was said in committee this morning that the committee would meet at 3 o'clock this afternoon. Is that a firm time, or are we waiting for a draft report or something of that nature?

Senator Hayden: We finally agreed that the meeting would be at the call of the Chair. I thought we might announce that this afternoon. We are simply awaiting the typing of the report.

Senator Flynn: So the Senate will be advised in due course?

Senator Hayden: Yes.

Motion agreed to.

TRANSPORTATION

PACIFIC WESTERN AIRLINES—POSSIBLE MOVE OF HEAD OFFICE TO CALGARY—QUESTIONS ANSWERED

Senator Austin: Honourable senators, I have a question for the Leader of the Government concerning Pacific Western Airlines. On March 3 I asked a question relative to the position of the government of Alberta on the removal of the head office of Pacific Western Airlines from Vancouver to Calgary. I asked the leader at that time whether the federal government had a position in respect of a provincial government acquiring ownership of an airline from the private sector, and then beginning to move its base of operations when there appeared to be no necessity for this from the point of view of service. Could the Leader of the Government inform this house whether the government has taken any position with respect to the question of the head office of Pacific Western Airlines?

The matter is of great concern to the employees of Pacific Western Airlines in Vancouver, who number over 1,200. I would like the leader to tell this house whether the government intends to leave the present position of the Canadian Transportation Commission alone, or whether some further measures may be in the offing.

Senator Perrault: Honourable senators, because of the detailed nature of the question I must take most of it as notice, but I shall endeavour to present a fuller statement tomorrow. It can be said that the Government of Canada is concerned about the general situation which has been described by Senator Austin, together with its implications. I can inform the house that thought is being given to legislation with some possible retroactivity to meet some of the concerns posed by the acquisition of Pacific Western Airlines by the Province of Alberta.

GRAIN

SUBSIDIES PAID ON SHIPMENT OF GRAIN FOR EXPORT TO EASTERN CANADIAN PORTS—SUPPLEMENTARY QUESTIONS ANSWERED

Senator Perrault: Honourable senators, I have replies to questions posed earlier in the session, and I will endeavour to make sure that all questions are properly answered before we rise for the summer recess.

First, may I reply on behalf of the government to a question from Senator Smith (Colchester) regarding total

grain subsidy figures for 1975 by province. Of that total of $8,603,157, New Brunswick received $4,579,608; Nova Scotia received $3,821,970; and Quebec received $201,579. So the greater percentage of the subsidy went to two maritime provinces, Nova Scotia and New Brunswick.

Senator Smith's second question was:

> Is it expected that the movement of grain in unit trains will be achieved soon?

The answer to that question is: Movements of grain under At and East Rates have traditionally taken place during the period when the Seaway is closed. It is hoped that, if feasible, a unit train would be in operation this coming winter.

The third question was:

> What was that throughput which will be sustained at the current levels?

The answer to that question is: Grain movements through Halifax and Saint John have averaged 30 million bushels annually with a roughly even split between the two ports. It is anticipated that the unit train movement would sustain approximately 15 million bushels annually through each port.

FISHERIES

EXTENSION OF COASTAL JURISDICTION—QUESTION ANSWERED

Senator Perrault: Honourable senators, on June 16 Senator Molson posed a question about the 200-mile coastal jurisdiction. He said:

> —has the government any assurance that in proclaiming the 200-mile coastal jurisdiction the provisions of the ICNAF Agreement covering fishing for salmon on the high seas will be respected by the signatory nations?

As honourable senators are aware, ICNAF is the International Commission for Northwest Atlantic Fisheries. The answer to the question is: The Canadian government does not consider that extensions of fisheries jurisdiction to 200 miles need affect the ICNAF Agreement on fishing for salmon on the high seas. Despite such extensions of jurisdiction there appears to be a general consensus developing among ICNAF member countries to the effect that ICNAF or some successor body should continue to regulate fisheries beyond the limits of national jurisdiction in the Northwest Atlantic. Moreover, the consensus emerging from the Law of the Sea Conference, as reflected in the conference's "Revised Single Negotiating Text," explicitly provides for a ban on fishing for salmon beyond the limits of national jurisdiction. It also provides that a country fishing within its own 200-mile zone for salmon originating in another country shall cooperate with the state of origin to ensure the proper conservation and management of salmon on the basis of the primary interest and responsibility of the state of origin with regard to such stocks.

It should be pointed out that the known distribution of salmon originating in Canadian rivers is almost entirely within 200 miles of the Canadian and Greenland coasts.

The government is therefore confident that the Atlantic salmon of Canadian origin will not be subjected to uncontrolled fishing by other nations.

PROVINCE OF SASKATCHEWAN

SAFETY OF GARDINER DAM—QUESTION ANSWERED

Senator Perrault: On June 8 Senator Greene asked a question concerning the safety of the Gardiner Dam. He said:

● (1410)

> Honourable senators, I have a question for the Leader of the Government in the Senate. In light of the great disaster in Idaho caused by the failure of the earth-filled dam, and in light of the fact that Canada has one of the largest earth-filled dams in the world, that being the Gardiner Dam, could the leader inform this house, and through us the public of Canada, what steps are being taken by the government to ensure that the Gardiner Dam is safe, and that the pent-up waters of Diefenbaker Lake are being held back by the Gardiner Dam and will not wreak similar havoc in the lands abutting that great earth-filled dam?

The reply to this question is as follows: Under an agreement with the Province of Saskatchewan, the Gardiner Dam was designed and constructed by engineers of the Prairie Farm Rehabilitation Administration, then an agency of the Canada Department of Agriculture, in the period 1958 to 1969. This agency will remain fully responsible for the structure until April 1, 1979, with limited continuing liabilities until the year 1994.

During the period of design and construction, PFRA employed a board of internationally recognized engineering consultants to provide technical advice. Under their guidance a comprehensive program for monitoring the performance and safety of the structure was established. PFRA staff have continued a detailed monitoring program since the completion of the project.

The Gardiner Dam is considered to be one of the most highly instrumented dams in the world. A board of consultants is still maintained, and at its most recent meeting in March of this year expressed its general satisfaction with the performance of the structure.

FOREIGN AFFAIRS

NEWSPAPER ARTICLE—COMMUNICATIONS BETWEEN CANADA AND UNITED STATES—QUESTION ANSWERED

Senator Perrault: Honourable senators, I propose to deal next with a question asked by the Honourable Senator Austin on June 10. The question was:

> I should like to ask the government leader what state practice is between Canada and the United States in terms of the communication of the positions of each of the two governments to the other, and to the legislative process in those respective countries.

The answer is as follows: It has been the mutually accepted practice between the Canadian and United States governments that formal representations on matters of government policy are communicated as necessary between their respective executives, that is, principally between the Canadian Department of External Affairs and the United States Department of State. Of course, on important matters of policy, contact also takes place as appropriate between the Prime Minister and the President.

In cases where one government considers it reasonable and necessary to bring its position to the attention of the other's legislature, the channels of communication remain the same. The accepted practice has been for one government to request of the other's executive that a message be conveyed to the appropriate legislative body. This procedure has been practised by both governments.

Senator Austin then asked a follow-up question:

> I wonder if the government leader can tell us whether the government thinks it appropriate to its position that a foreign government be able to make representations to people in a legislative process in Parliament in a case where that representation is contrary to the government's domestic policy?

The answer to this is that, as a general principle, the procedures referred to above would not extend to cases where a foreign government was considered to be attempting to interfere improperly with the internal affairs of Canada.

MEDICAL CARE ACT

BILL TO AMEND—THIRD READING

Senator Denis moved the third reading of Bill C-68, to amend the Medical Care Act.

The Hon. the Speaker: Honourable senators, you have heard the motion. Is it agreed?

Senator Forsey: Honourable senators, I rise only to say that I regret very much that last night, since I was at Her Honour the Speaker's dinner, I was unable to hear the division bell, and so was unable to come in and record my vote against the second reading of this bill.

Some hon. Senators: Hear, hear.

Senator Phillips: You will have the opportunity now.

Motion agreed to and bill read third time and passed.

AIR TRANSPORTATION

OFFICIAL LANGUAGES ACT—LANGUAGE RIGHTS OF AIR PILOTS IN PROVINCE OF QUEBEC—DEBATE CONTINUED

The Senate resumed from Thursday, July 8, the debate on the motion of Senator Lamontagne that the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.

Hon. Jacques Flynn: Honourable senators, I have thought about this motion since it was introduced last week by Senator Lamontagne and was commented upon by my neighbour, Senator Walker. The first thing I want to tell you is that I have decided to speak in English, which is what I usually do, because I wish to be understood directly by the whole Senate. My second reason for doing so is that I think that in this instance bilingualism is not, or, in any event, should not be, the issue. I realize clearly that it has been perceived in this way in both French and English Canada, and I regret that very much. It has created a very serious crisis, a veritable threat to national unity, and I think we should not let the extremists on both sides be the only ones to be heard.

[Senator Perrault.]

Hon. Senators: Hear, hear!

Senator Flynn: There is no doubt that in Quebec the separatists are very happy with the situation and with the state of mind which has resulted from this problem. There is equally no doubt that in other parts of the country a lot of people have decided that here is the issue on which they can finally say, "Well, that's enough, goodbye bilingualism." I think that those adopting either one of these extreme positions are playing a very dangerous game, and I think it is up to those of us who believe that there is room for understanding and for a logical solution to enter the debate.

I have indicated to Senator Lamontagne personally, and through my interventions when he spoke, that I had some reservations about the wording of his motion. In fact, honourable senators, the first objection I have to the motion is that it does not relate clearly to the crux of the issue at hand. The motion reads:

● (1420)

> That the Senate affirms its full support of the Official Languages Act, including the right of air pilots to operate in the province of Quebec in either of the two official languages according to their choice, provided that the exercise of that right be compatible with air safety standards as certified from time to time under the authority of the Aeronautics Act.

The problem is not the Official Languages Act; that has not come into play in this matter at all. No one has suggested that the act was wrongly interpreted, that it should not exist, that it should be abrogated, or anything else of that nature. I do not see how it can be said of an issue, which involves at best 5,000 pilots and controllers, that it justifies our even raising the subject of the Official Languages Act, let alone its abrogation or modification. I do not believe anyone has dared to say that the Official Languages Act was not respected or that it should be amended or abrogated. Therefore, in my opinion, we unnecessarily and dangerously enlarge the problem by calling this act into play in this particular instance.

As I said earlier, it has been perceived generally by the population, and more so by extremists on both sides, as being a bilingualism issue. However, I do not believe that this perception would justify the statement that the principle of the Official Languages Act should be discussed, or needs to be discussed, or that we should need to affirm, or re-affirm our full support of this act. No one in a responsible position has suggested that our dedication to the principles of bilingualism as set down in that act has been brought into question.

Further, the reference to the Aeronautics Act, in my opinion, tends to blur the fact that the entire issue is before a commission appointed by the government. Whether the Aeronautics Act is to come into play later on, after the commission has reported, is something that will have to be decided after the report is presented. Therefore, the Aeronautics Act is of no assistance, and whether we declare that we will observe the provisions of the Official Languages Act or the Aeronautics Act does not mean

anything to the public and certainly means nothing to the parties directly concerned, by which I mean CATCA, CALPA and the Association des Gens de l'Air du Québec.

What will they conclude from this motion before the Senate? Nothing. Why? Because the motion contributes nothing to the eventual solution. To my great sorrow, Senator Lamontagne has failed to come to grips with the essence of the problem which confronts the Canadian people at this time. I have given significant thought to an amendment. But it's not easy because I do not wish to provoke any of the parties, or any of those here who may support the government. However, I have, of course, as I will indicate quite clearly, strong criticism of the government's action in this instance. I would prefer hearing other speakers before deciding whether this motion can be improved, whether it can be put into a form which will indicate a possible solution rather than express pious hopes or enunciate meek platitudes such as declaring that we do not intend to change the Official Languages Act and prefer that the Aeronautics Act be employed in this instance.

I come now to the history of the problem. It was given you by Senator Lamontagne up to the point where the strike of the air pilots took place. That was when the trouble started. There was no reference in Senator Lamontagne's speech to that strike.

It should be remembered that there was no great difficulty so far as the public was concerned. I do not say so far as CATCA, CALPA or the Association des Gens de l'Air du Québec were concerned. I say there was no difficulty so far as the public was concerned, until the appointment of Mr. Keenan as commissioner to inquire into the intended implementation of the use of the two official languages at certain Canadian airports. At that time it was limited to Montreal, and, it was suggested, perhaps also to the National Capital airport.

CATCA and CALPA were very happy with the choice of Mr. Keenan, but objections were raised by the Association des Gens de l'Air du Québec. Mr. Keenan then resigned—and for good reason, I suggest, since he had acted for CALPA, and was obviously acting for the majority of the members of CALPA, who had shown an obvious bias.

Decisions of CALPA have always been on the basis of the majority, and the majority of members of CALPA are English-speaking. There is a rather small minority, perhaps 20 per cent, of French-speaking members, but CALPA, I suggest, has always spoken for the majority, without much regard for the views of its minority. However justified was the resignation of Mr. Keenan, the government, in its hesitation to name a new commissioner or commissioners, ended up complicating the situation.

CATCA—that is, the controllers—indicated that they intended to strike, but that strike was stopped by an injunction from the Federal Court. CATCA agreed to obey the injunction and stayed at work, but CALPA—that is, the pilots—decided to strike.

Some people may say that the strike was legal. I entirely disagree. In my opinion, it was illegal. It was unjustified and unjustifiable, mainly because the implementation of the use of both official languages was intended for certain airports only. There was no immediate peril, there was no problem with regard to air safety. But, of course, the Olympics were just around the corner, just a few weeks away. It was a critical time and CALPA decided they had bargaining power which they could use, and they used that bargaining power in dealing with the government in connection with their return to work.

The problem, I suggest, was born right there and then, after the agreement between Mr. Lang and both CATCA and CALPA. Up to that point there was no serious crisis in this country over bilingualism. The question had been dealt with solely as a matter of air safety. But the terms of the agreement—exacted from the government, I would suggest, under duress—started the events which we have witnessed in recent weeks.

● (1430)

Now let me turn to this agreement. First there was to be one commissioner. It will be remembered that there was but one about whom CATCA and CALPA were sure. The government decided that it would appoint two, Mr. Justice Sinclair and Justice Chouinard of Quebec. CALPA complained that with two commissioners there could be divergent views resulting in a stalemate, so the government decided to appoint a third. The funny thing is that after having obtained a third one, CATCA and CALPA went back to their first idea and said that the Commission had to be unanimous. How could the government, how could the Minister of Transport, accept such a condition? It is unbelievable.

Unanimity or else! The government accepted the proposal not to implement any recommendations for the use of both official languages in certain airports unless these were unanimous. Imagine that. CATCA and CALPA took that position on the basis of the support of a majority of their own members, and now they turn around and say, "We want unanimity in the commission's decision, otherwise you, the government, will undertake"—and Mr. Lang agreed to that—"not to act but merely to ignore the recommendations of the commission."

I say to you, honourable senators, that I cannot recall a more abject capitulation on the part of any government.

I admit that the situation was a difficult one with our airlines not operating, and that the minister was under terrific pressure. But that he should have given in to such a condition, that I will never be able to understand or accept.

I do not mean to belabour the point but the fact is that not only did Mr. Marchand resign from the government on this question, but since then the Prime Minister himself has said that he is not too happy with the agreement; Madam Sauvé has said that she could not agree with it; Mr. Danson has said that the pilots and controllers exaggerated; Mr. John Munro has said the same; and a lot of Liberal members in the other place and elsewhere have said the same thing. It is therefore obvious, as I will, I think, prove later on, that the main problem has been created by this very condition exacted from the government, that if the report is not unanimous, if there is any doubt, the government agrees not to implement the use of the two official languages in airports other than those where they are used now.

There were other terms to the agreement that are worth mentioning, although to my mind the problems they raised

have been resolved. The only contentious issue that remains is the one I have just discussed. There was a problem about requiring the commissioners to decide beyond reasonable doubt. That gave rise to no great debate. The commissioners, as we all know, wrote to the minister and said, "Well, as far as we are concerned we will be governed by the Public Inquiries Act." In a letter addressed to the Honourable Mr. Lang, dated July 6, printed in our *Hansard* of July 7 at pages 2352 and 2353, the commissioners dealt with these problems of the question of reasonable doubt, of publishing the views of CATCA and CALPA in the report, and especially the problem to which I previously referred, that of unanimity. They said essentially this, "This is not our concern." I think it was logical for them to say that. They said, "This is the problem of the government. This is the undertaking of the government. We cannot be bound by this unanimity rule or by this veto by one member, or by this capitulation of the government in advance. We will report as we see fit, and we will submit a dissenting report if we wish." So, any problem about the integrity of the commission or the commissioners has disappeared with this statement about the way they will deal with the mandate they have received from the government.

The last point I will mention in passing is that there was an undertaking by Mr. Lang to have any decision resulting from a unanimous recommendation of the commissioners to implement bilingualism in certain Canadian airports approved by the House of Commons. I do not take that too seriously. I think it is very childish.

Senator Asselin: By a free vote.

Senator Flynn: By a free vote. Of course, that is one of the biggest jokes. I suppose they had noticed how the free vote went on capital punishment, on Bill C-84, at the second reading stage, and said to themselves, "Maybe that is the way to deal with a free vote." I am not too sure that they should be reassured by that.

Senator Lamontagne: Let us have a free vote here.

Senator Flynn: On what?

Senator Lamontagne: On this motion.

Senator Asselin: This is a farce.

Senator Flynn: We will have a free vote, sure. There is no doubt that it will be a free vote.

Senator Croll: They just had a free vote on the other side and the "free" won.

Senator Flynn: I do not doubt it was a free vote, but there was just a little bit of force exerted on some of them. We will have occasion to deal with the freedom of members of the House of Commons and of the Senate very soon. In any event, this does not create a problem, because I cannot see Parliament referring the recommendation of the government; I cannot see the opposition deciding against implementation of bilingualism in Canadian airports if the commissioners have reported unanimously. Just imagine it. That would be political suicide for any government or any opposition party.

The problem then is not with the commissioners appointed; their integrity is beyond question. Nor is the problem with the commission, since it has a mandate which ensures

that it can do a good job and make sound recommendations on this issue of whether the use of both official languages in certain Canadian airports should or should not be implemented.

The question is whether a minority in CATCA, CALPA or l'Association des Gens de l'Air should cooperate with the commission and wait to see what the recommendations will be. I suggest to you that l'Association des Gens de l'Air is perfectly justified in refusing to cooperate with this commission at this time—not that there is any question about the integrity of the commission, not that there is any question about the integrity of the commissioners, but because the government, having accepted not to do anything about the recommendations if they are not unanimous, gives these people no assurance that they will eventually be treated fairly by the government, and by so doing the government certainly does not create a climate suitable to cooperation.

● (1440)

The Commission could very well bring in a majority report with a weak dissenting voice and then the government would say, "Our hands are tied; we cannot act." Well, I think we must find a solution to this particular problem, otherwise we will not resolve the larger issue. That is the main point.

The commission must be free to use opinions from whatever the source, and it has said just that. However, if the Association des Gens de l'Air du Québec, who are vitally interested in this question, cannot be sure that the commission's recommendations will be acted upon, unless they are unanimous, I say to them, "You are right to underline that point and offer it as an explanation for your refusal to participate." This is not an insult to the commission but a reproach to the government and a reproach to CATCA and CALPA for having extracted that capitulation from Mr. Lang and the government.

I therefore suggest, honourable senators, that we should recommend some method of circumventing this objection—this very valid objection, as far as I am concerned—raised by the Association des Gens de l'Air du Québec. The government by renouncing or denying or, if you will, reneging on its obligation in this matter is not helping the situation. To my mind, an agreement of this kind, obtained under those circumstances I have referred to, is of doubtful legal or moral value. To me it is a good example of political piracy. Of course, the government cannot, and I would not suggest the government should, denounce the agreement.

It is very interesting to note some of the recent statements made by Mr. Lang. He has suggested, in a rather vague fashion, that he would do something about the recommendations of the commission, appearing to conveniently forget the government's undertaking concerning the rule of unanimity which I have mentioned. Other members of government have made the same sort of cunning noises.

I do not think it is a safe way to find a solution for the government to try to extricate itself unilaterally from this undertaking. I think it is up to, first of all, CATCA and CALPA to recognize that they have obtained something which is really exaggerated and unfair to the minority, the French-speaking minority in their unions. That is what they should recognize. Some people have said, "If the pilots say it is unsafe to use the two official languages, then I

believe them." If a French-speaking pilot says it is unsafe not to use the two languages, are you going to take the majority view or the minority view? They may be right, whether or not they are the majority.

It seems to me that CATCA and CALPA should be ashamed of themselves for the way they have treated their French-speaking minorities. I have some reason to hope that they will change their minds.

Yesterday I was looking at a statement made by Mr. Maley in an affidavit he filed with the Federal Court with reference to something which had been asserted in the *Globe and Mail*. I think I will read paragraph 2, as the first one is of less importance.

> I have read the statements in paragraph 4 of the Affidavit of James Bradley filed in this matter and the press reports attached as exhibits thereto. In particular, there has been drawn to my attention a report in the *Globe and Mail* of June 29, 1976, in which there was attributed to me a statement that the position of the Canadian Air Line Pilots Association had not changed and that the pilots might go out again if the Inquiry Commission recommended bilingual air traffic control in Montreal. The report is entirely incorrect. The statements made by me at the time indicated, on the contrary, a commitment by CALPA to involve ourselves to the maximum of our ability in the work of the Commission in an attempt to justify our views.

The views of the majority, again, are not unanimous by any means.

> I stated on numerous occasions that if we were unable to prove before an impartial commission that our concerns were valid, then it would seem we did not have much of a case. I have never said that if bilingual air traffic control were found to be acceptable by the commission, the pilots would go out. I do not even have the authority to make such a statement.

I like this statement by Mr. Maley but I would like to read into it that he is willing to accept the recommendations of the commission, whatever they are, whether unanimous or not. I believe that is the only way you can have a commission operate efficiently and solve the issues relating to both safety and language. I suggest to you that if the Senate were to ask those two associations to review their position in this particular respect, then the Association des Gens de l'Air du Québec could no longer refuse to cooperate with the commission and would be morally forced to say that they are prepared also to accept the recommendations of the commission.

Senator Lamontagne: Provided they have a voice. They have no voice at the moment.

Senator Flynn: I suggest to you, Senator Lamontagne, that you are creating a false issue here because anyone may appear before the commission and the commission is prepared to listen to the Association des Gens de l'Air du Québec. This has been made very clear. I do not believe you are introducing a real problem in raising that point. The commission has clearly said that they will listen to all the viewpoints which might be expressed, and I do not think for a moment that the commission would refuse to listen to les Gens de l'Air. The minister has been begging the Association des Gens de l'Air du Québec to cooperate with the commission; so there is no doubt the commission will listen to them. I do not understand why you say that they haven't a voice.

I say that if they are assured that the recommendations of the commission, whether unanimous or not, will be studied and acted upon by the government, then they will have no reason at all not to cooperate with the commission and by so doing bring about a practical solution which will defuse this whole crisis and cause the bilingualism issue to disappear.

I suggest to you that it is important also for the government to recapture its authority and reassure its responsibility in making a decision on this issue—whatever the viewpoints of pilots. Even taking into account the viewpoint of the commission, in the end the step that must be taken to bring about a practical solution, whether it be implementation of the use of the two official languages in certain Canadian airports or, for whatever valid reasons, not to do so, remains the responsibility of the government to take. I do not mind Parliament's approving or disapproving. That is something else. But first and foremost the government must recover its decision-making powers in this respect. That is imperative. Next, CALPA and CATCA should declare that they will accept the recommendations of the commission whether unanimous or not. At that point, l'Association des Gens de L'Air should immediately declare that it will cooperate with the commission and that it also will accept its recommendations. Subsequently, the government, having been freed to act, should say that it will take whatever measures are required by the facts, the circumstances, and the recommendations of the commission.

● (1450)

Senator Lamontagne: That is, of course, the substance of this motion.

Senator Flynn: No, you did not say that.

Senator Lamontagne: We did.

Hon. Léopold Langlois: Honourable senators, I should like to open my remarks on this motion by quoting a few excerpts from the text of the Prime Minister's statement on national television and radio on the disruption of civil aviation on June 23 last. The Prime Minister opened his remarks in the following manner:

> Some would have you believe that the shutdown of aviation results from a conflict between bilingualism and air safety—a conflict between the federal government's alleged desire to promote bilingualism at all cost, and the need for pilots and air traffic controllers to resist the government in the interest of preserving safety in the air.
>
> Such a distortion of the real issues involved makes the finding of solutions unnecessarily and dangerously difficult—and that task is made even more difficult by the emotionalism with which some people on both sides of the language fence discuss the official use of the English and French languages in Canada.

Then the Prime Minister went on to express in clear terms the government's policy:

> In the hope of bringing facts and calm judgment to the discussion of bilingual air traffic control in

> Quebec, I would like to tell you what the government's policy is, how it came about, and why it is necessary. At the same time, I would like to emphasize as strongly as I can, that in fulfilling its very serious responsibility to regulate avaition in Canada, the federal government places the very highest priority on the safety and security of passengers, crew members and the general public. No other goal of public policy has ever or will ever take precedence over the goal of preserving and improving public safety in the air.

Then he added:

> If it could be shown that the use of both French and English in conversations between air traffic controllers and pilots in Quebec air space is or could be a safety hazard, the federal government would insist that only the English language be used. Common sense would prohibit any other course of action.

It is now interesting to my mind, honourable senators, to see how the government's policy was evolved. First, back in 1962 Transport Canada issued directives on language usage to the effect that French could be used between controllers and pilots in Quebec for emergency purposes as a safety measure. In 1971 Transport Canada instituted a fact-finding assessment of the operational use of both languages in air-ground communications. That study concluded that situations did exist where private pilots, having a limited knowledge of English, required French language communications to obtain assistance, again in the interests of safety.

In 1974, an aviation safety investigation was carried out at five airports in Quebec on the use of both languages in air traffic control, and, after it was determined that safety could be improved, the use of French in addition to English—and I emphasize that: the use of French in addition to English—was authorized in June 1974, for visual flight rules at the five airports controlled by Transport Canada in the province of Quebec, to wit, the airports of Quebec City, St. Jean, Baie Comeau, Sept-Îles and St. Honoré.

Since then bilingualism has been introduced in radio advisory services in Quebec, and arrangements are being completed for bilingual air traffic control to become available this July at Bagotville with the Department of National Defence providing this service for civilian aircraft, and, on June 26, bilingual air traffic control for visual flight rules became available at Val d'Or.

All of these steps, honourable senators, which relate to VFR flight operations, have been taken in full consultation and cooperation with the aviation community including the Canadian Air Traffic Control Association.

On May 6, the Minister of Transport announced that Transport Canada had begun a series of experiments simulating bilingual air traffic control operations under instrument flight rules at the government's electronic simulation centre in Hull, again with the representatives of various aviation associations and the aviation industry included.

At that time the minister also announced that these experiments were intended to research and develop safe procedures for the introduction of bilingual air-ground communications in IFR operations at several airports in Quebec. These experiments were undertaken by a team of aeronautical experts including representatives of Transport Canada, the Air Transport Association of Canada, the Canadian Owners and Pilots Association, the Canadian Business Aircraft Association and Les Gens de L'Air de Québec.

[Senator Langlois.]

On several occasions the minister gave the assurance that strict safety standards and practices for aircraft operations, which have been developed over the years in Canada, were not and will not be lowered as a result of any further introduction of bilingual communications in Quebec.

In the June 26 issue of the Montreal *Gazette* an editorial entitled "Aviation Language Issue" concluded in this way:

● (1500)

> The Canadian government has created all the conditions and policies necessary for the issue to be handled in a calm, dispassionate way. It cannot allow itself to be browbeaten by Canadian, American, British, Australian, Scandinavian or other pilots and controllers associations. They have already done the Canadian public and the Canadian economy considerable disservice by their self-serving tactics in the name of public safety. Now they have the chance to return to public service and at the same time contribute to the development of public policy affecting them through the hearings of the inquiry commission.

In its June 28 issue the Montreal *Gazette* again reproduced an article with the heading: "Air Bilingualism Foes Ignore Social Situation", signed by Mr. K. R. Singh. This article was reproduced in the "Dialogue" section of the newspaper with the following note:

> A column open to our readers who wish to express viewpoints on topics of interest. K. R. Singh is an Air Canada pilot. This article originally was offered to *Pilot* magazine (published by the Canadian Air Line Pilots' Association) but it was rejected for publication.

This excellent article concluded as follows:

> This is an act of social irresponsibility that cannot be good for the long-term interest of Canada. Peaceful coexistence is a desirable goal. It cannot come about by forced conformity. To think it can is naive. It is hoped that our aviation technicians can relate to the non-technical needs of our society and handle this social responsibility well.

On June 24, the Toronto *Star*, in its editorial entitled "Trudeau Clears The Air," wrote the following paragraph:

> Now the government's position is crystal clear. The controllers and pilots have no longer any excuse for prolonging this costly work stoppage. Thousands of businessmen, vacationers and other travellers have suffered enormous inconvenience. And both Air Canada and C.P. Air plan to start massive lay-offs if the strike continues. No steps have been taken to date that would make flying in Canada any less safe than it was a week ago. And there is the Prime Minister's assurance that none will be taken if they are judged to jeopardize air safety.
>
> Pilots and controllers should go back to work now.
>
> The place for them to make their case is not on picket lines but before the inquiry commission.

And finally, on June 25 the Toronto *Globe and Mail*, in its editorial entitled: "Mr. Trudeau and Safety," had this to say:

> The Prime Minister has given his guarantee that bilingual communications will not be introduced at Montreal airports unless a commission of inquiry certifies that the introduction will not reduce existing safety standards.

And further it went on:

> Mr. Trudeau is dealing not just with a technical problem, he is dealing with the most important kind of political problem; a fact that has been underlined in an unnecessary and unfortunate dislocation in air traffic this week.

I could go on citing editorials from many other Canadian newspapers, both French and English, but I deem it unnecessary. However, there is an additional and last article which appeared in the Montreal *Gazette* of July 6, which I would like to quote because of the authority of the person who wrote it. This article was written, in a column open to those who wish to express viewpoints on topics of interest, by a Mr. Maurice Baribeau, a pilot and former regional air administrator for Transport Canada at Dorval. Surely, honourable senators, the qualifications of Mr. Baribeau as an air pilot, and his long experience in the air division of Transport Canada and particularly as a former regional air administrator of that department at Montreal airport, qualify him to speak with authority, probably more than anyone else who has to date intervened in the debate on the use of French in air control operations in the province of Quebec. The following excerpts from Mr. Baribeau's article are worth quoting and remembering:

> Many people are offering their views on the divisive issue of languages in air traffic control. If the general public is to attempt to judge the situation, a lot more background information is required to clarify the issue in a rational rather than emotional way.
>
> Joe Clark may be right in stating that language in air traffic control is a technical matter which should be settled at technical level. In fact, he is right.
>
> The question was settled by the International Civil Aviation Organization several years ago. ICAO is the technical agency of the United Nations responsible for establishment of aviation and flight standards to be used in international air navigation. When ICAO cannot agree on the setting of a standard, it publishes "recommended practices".
>
> In the matter of languages, ICAO has recommended that English be made available at international airports and on international air routes, in addition to the language(s) used on the ground by the contracting states. This was a sound recommendation and it was accepted by most countries, not all. It was obvious that pilots and other flight crew members could not become multilingual. The use of a common language was the best way to facilitate international air navigation while maintaining adequate safety standards.

I have here in front of me a copy of *International Standards, Recommended Practices and Procedures for Air Navigation Services, Aeronautical Telecommunications, Annex 10 to the Convention on International Civil Aviation.* This is Volume II, dealing with communication procedures. It is the third edition of Volume II, of July 1972. The statement on the front page is to this effect:

> This edition incorporates all amendments adopted by the Council prior to 25 March 1972 and supersedes, on 7 December 1972, all previous editions of Annex 10.

I go to page 34 of this volume, and I quote the following section, which is section 5.2.1.1.1, as follows:

> 5.2.1.1.1 RECOMMENDATION.—In general, the air-ground radiotelephony communications should be conducted in the language normally used by the station on the ground.
>
> Note.—The language normally used by the station on the ground may not necessarily be the language of the State in which it is located.

This is all under the heading, "Language to be used." To those who say that English is the international language of aviation, I reply that this is a very eloquent denial of their contention.

I now return to the article by Mr. Baribeau in the *Gazette*, and I quote as follows:

> In any case, considerable flying was going on in the province—

That is the province of Quebec.

> —by pilots who could not speak English or whose knowledge of English was marginal. It was then decided as a measure of safety to impose bilingual requirements for the recruitment of any new controller in the province of Quebec.
>
> This was opposed with vehemence by CATCA but the decision stuck.

Perhaps I may be permitted to open a parenthesis, since here we probably are at the root of the whole opposition by CATCA. They were afraid of those bilingual controllers being recruited in the province of Quebec. They were afraid of losing their jobs. I now return to the article.

> The then director of civil aviation in Ottawa agreed that French could be used in the case of distress or emergencies. In any case a larger number of controllers with bilingual abilities in the province used their good judgment and assisted French-speaking pilots in difficulty. They were serving the true interests of safety.
>
> In a few cases, lives have undoubtedly been saved by that new practice. French-speaking Quebecers began deriving some benefits from a very costly service which up to that time had been made available only to English-speaking Canadians.
>
> Safety is not the sole prerogative of English-speaking people. All races on this earth should have access to safety services.

Notwithstanding this general public disapproval, as represented by the editorials that I have been quoting from, of their attitude in this crisis, air controllers and airline pilots carried on with their illegal and damaging strike and agreed to return to work only after having obtained from the Minister of Transport what I consider to be unreasonable and unacceptable conditions.

I do not like the protocol signed by the Minister of Transport and national associations of air traffic controllers and airline pilots. However, I do not want to elaborate further on this protocol which has now been reluctantly accepted, so it seems, by members of the Canadian cabinet.

[*Translation*]

Honourable senators, I shall limit myself to the comments I have just made on the memorandum of understanding between the Department of Transport and the national associations of air controllers and airline pilots, except to underline the very difficult position in which the Minister of Transport was; he was forced to negotiate with fanatics to prevent the enormous financial losses threatening Canadians from coast to coast if this strike persisted, particularly on the eve of the Olympics in Montreal.

It was also absolutely urgent to put an end to the national controversy arising from this strike to prevent Canadians from being further divided by this plot against national unity by a handful of extremists. We also had to counteract equally disastrous repercussions coming from my own province, and in particular from politicians who were anxious to take advantage of all opportunities, good or bad, to promote their own selfish ends, and in particular their petty political ends.

Before concluding my remarks, I wish to make a brief reference to what I consider the untimely intervention of the Chief Justice of the Superior Court of Quebec in this political matter.

As honourable senators will recall, the Chief Justice of the Superior Court of Quebec expressed the view that the memorandum of understanding between the Department of Transport, CATCA and CALPA imposed restraints on the commissioners in their inquiry into air safety, should the government project be implemented to extend the use of French to Montreal airports.

The learned judge even urged the Chief Justice of the Supreme Court of Canada to ask the Canadian Judicial Council to look into his allegations. It goes without saying that I am considerably reluctant to criticize, or even to make any reference to the judiciary in the course of a political debate. But I was not the first to throw the ball in this arena, and the one who threw it should be prepared to have his attitude criticized by politicians, as they have the right to do.

However, in the circumstances, I believe it is my duty to make the few comments which follow.

With all respect for the honourable justice, and for the sole purpose of dispelling any doubt or any apprehension which might have been raised in the minds of the public—and may I point out here that this doubt and this apprehension do exist in the minds of many—I want to quote in this connection an article from *Le Devoir* of June 8, 1976, under the title

> "Justice Deschênes and the Commission on bilingualism in air control operations".

This article provides a French translation of an article written by Mr. Edward McWhinney, Chairman of the Department of Political Science at Simon Fraser University in British Columbia, and I quote this short excerpt of Mr. McWhinney's article:

[Senator Langlois.]

> Firstly, according to the provisions of the agreement announced on June 28 by the Minister of Transport, Mr. Lang, two private pressure groups, the Canadian Air Line Pilots' Association and the Canadian Air Traffic Control Association, seem to have been granted a right of veto on whether the findings of the inquiry Commission will be mandatory for the members of these two associations.

Moreover, in the *Citizen* of July 8, there was an article entitled "Judges Reject Lang's Directive." This aberration by the *Citizen*, as reproduced in this article, is still more serious because it was written after the commissioners' letter was made public, and this article reads in part as follows:

● (1510)

[*English*]

> Fortunately, in some instances, judges do not have to worry as much about politics as cabinet ministers.
>
> So even though Transport Minister Otto Lang compromised on bended knee to the striking air controllers and pilots, the three-member judicial panel appointed to sort out the mess has acted with appropriate independence by saying it will not be bound by Mr. Lang's arbitrary rules.
>
> The transport minister bowed to the pilots' and controllers' demands that the inquiry members would submit a unanimous report.

And finally, in the *Gazette* of July 10, again written after the publication of the letter from the commissioners to the Minister of Transport, I read the following paragraph:

> The judges appointed to the inquiry commission on bilingual air control appear to have stripped their terms of reference of the bias Mr. Lang agreed to incorporate in them at the behest of the anglophone controllers and pilots. The requirement of a unanimous report is not applicable under existing law. The disposition of the report—and reports that controllers and pilots may want to make—is procedurally a matter for the government, not the commission, to decide. Making these and other points, the judges untie the strings that Quebec Superior Court Chief Justice Jules Deschênes said must not bind them.

[*Translation*]

Once again, the three articles I just quoted show that this doubt, or apprehension, brought about by the untimely intervention of the Chief Justice of the Superior Court reached circles as high as that of academics, like Mr. McWhinney, and usually enlightened journalists of the two papers from which I just quoted.

But perhaps it is the authority of the person and the high office he holds that caused his intervention to influence those minds which probably should not have been confused by this unjustified intervention.

First, I would like to bring to the attention of this house the letter of July 6 last sent to the Minister of Transport, Otto Lang, by the three commissioners appointed to conduct the said inquiry, namely, Justices Sinclair, Chouinard and Heald. Copies of this letter were tabled in Parliament at the beginning of last week, as honourable senators certainly recall.

In that letter, the commissioners point out that none of them was involved in drafting the memorandum of understanding, and that they became aware of its provisions only when they were made public. This is a very important point which should have been taken into account before commenting on the memorandum of understanding. It would also appear that there has been confusion between the memorandum of understanding and order in council P.C. 1976-1576, under which the Privy Council committee, upon the recommendation of the Minister of Transport, appointed the commissioners and delineated their terms of reference. These terms are determined in the order in council and not in the memorandum of understanding between the minister and the CATCA and CALPA representatives. It is the confusion between those two texts that led to this terrible mistake by people who, I think, should have thought twice before speaking.

Senator Flynn: Senator Langlois is making a more terrible mistake than Judge Deschênes.

Senator Langlois: No, my honourable friend was himself misled by those statements.

Senator Flynn: No, not at all.

Senator Langlois: Is my honourable friend suggesting as a lawyer that the protocol binds the commissioners?

Senator Flynn: On the contrary. I say that you are only mentioning Judge Deschênes' mistake, but not Mr. Lang's.

Senator Langlois: I said earlier before you came in—and that is why you do not know—that I did not like the protocol any more than did all the others who took the opposite view. But, in any case, I will not go as far as using the protocol, as my honourable colleague suggested, to say that the commissioners are bound by the protocol.

Senator Flynn: I never said that. That is exactly what I am saying, that the commissioners are not bound and that I had faith in the integrity not only of the commissioners but of the commission, in the ability of the commission to do a good job.

Senator Langlois: The honourable senator spoke earlier, and I noted word for word what he said, referring to the protocol:

● (1520)

[*English*]

There was a problem about requiring the commissioners to decide beyond reasonable doubt.

[*Translation*]

This is in the memorandum of understanding, and not in the terms of reference of the commission and this is where you made your mistake, just like Mr. Justice Deschênes.

Senator Flynn: Not at all. I rise on a point of order because I am entitled to correct the interpretation of the honourable senator.

Senator Langlois: No, no.

Senator Flynn: I have a right to make a correction.

Senator Langlois: The honourable senator is not entitled to rise on a point of order to reject a point made by someone else.

Senator Flynn: I am not rejecting anything, I simply reject your interpretation of what I said.

Senator Langlois: What you said is confused.

Senator Flynn: I wanted to make it clear that all these conditions of the memorandum of understanding were determined by the letter sent by the commissioners to Mr. Lang. I am saying that there is only one problem to solve before obtaining the cooperation of the Gens de l'Air, and that is to find a way to get rid of the commitment of the government. This is quite clear. I said so with no hesitation, and my learned colleague is quoting me mistakenly or interpreting what I said mistakenly, like he has just done.

Senator Langlois: Honourable senators, I cannot accept the intervention of my friend and honourable colleague on a point of order because he wants to reject what I suggested. I quoted his own words. We shall be able to read tomorrow in the official report of the *Debates of the Senate* if he said them or not, unless they are corrected this evening.

Senator Flynn: No, I would not do that.

Senator Langlois: Let us forget this skirmish for the moment. I hope that I shall be able to continue my speech, especially since I am nearly finished, which will encourage my colleagues.

Senator Flynn: Hear, hear!

Senator Langlois: I therefore come back to the paragraph I had started on when I was interrupted.

It would also appear that there has been confusion between the memorandum of understanding and order in council P.C. 1976-1576, under which the Privy Council committee, upon the recommendation of the Minister of Transport, appointed the commissioners and delineated their terms of reference. The memorandum of understanding was tabled in this house on 28 June 1976.

Indeed, in their letter dated July 6, I feel the commissioners dealt in a categorical, clear and precise way with the representations concerning the alleged limitations imposed upon them in the accomplishment of their terms of reference. Also they clearly stated they were acting independently. It was their responsibility, and no one else's, to clarify that issue. It would have been better for everyone to wait until the commissioners cleared that matter before making any comments.

I feel—and certainly my honourable colleagues in this house will share that opinion—that in their letter the commissioners finally dealt with the untimely and unfounded objections by the Chief Justice.

I do not wish to bring any confusion or misunderstandings to this important debate, and I shall not comment any further on that sad and unneeded intervention in this national debate.

To conclude, honourable senators, I express my unconditional support for the motion introduced by Senator Lamontagne, in the hope that it will be approved by the Senate.

[*English*]

Senator Flynn: On a point of order, for the information of Senator Langlois, may I quote rule 28 of the *Rules of the Senate of Canada*:

> A Senator shall not speak more than once to a question before the Senate except in explanation of a material part of his speech in which he may have been misunderstood—

Senator Langlois: It is not on a point of order that you do that; you have a second right to speak, but not on a point of order. That was the point I made.

Hon. Raymond J. Perrault: Honourable senators, I do not intend to intervene at length in this debate on the motion of Senator Lamontagne. However, I think we should recall with approval and satisfaction that all political parties in Canada supported the introduction of the Official Languages Act as a very beneficial action on behalf of Canadian unity. It is to be regretted, however, that the recent controversy affecting air traffic controllers and pilots has developed in some areas of Canada into a dialogue with dangerous and disturbing overtones. I have made it a point to meet personally with Mr. Maley, the president of CALPA, and some of his pilots, and to talk to certain controllers. I am convinced that their principal concern is with respect to safety in the air. But, it has to be said that if Canada is to remain a united country it will do so if moderates in all parties and in all provinces demonstrate tolerance and understanding. In view of some of the comments made in Canada in many of the provinces—honourable senators are aware of these comments—we need more tolerance than ever before with respect to linguistic differences which may exist. We need tolerance with respect to our cultural differences and other differences which exist between and among Canada's people and its provinces. Whatever language they may speak, Canadians want to travel safely in the air and it is wrong-headed and perverse to suggest, as some have—yes, at times in shadowy newspaper advertisements in which the names of the sponsors are not even listed—that the government of this nation or of any of the provinces or any group of Canadians, whether they live in Ontario, Quebec, British Columbia, the Atlantic Provinces or the Prairies, wish to place air safety standards in second place behind language, culture or any other consideration. This is a perverse falsehood. We have high air safety standards in Canada and this is agreed to by all in this chamber and all in Parliament. No one wishes to place those standards in jeopardy. However, it is contended—and this is the essence of the discussion which has taken place in Canada during the past month—with evidence to support it, that under certain conditions the availability of another language, in this case French, in air traffic control in the province of Quebec, specifically at the Montreal airports, could not only maintain the present air safety standards but in actual fact improve and enhance them. That is the statement, that is the contention.

Now, what is the position of the government? I do not intend to go into repetitive detail in this regard, but in essence the government has said, "Let us find out the facts and achieve a determination." Unfortunately, there are some in this country who do not wish to be confused by the facts. They seem not to want an investigation—a fair adjudication. I leave honourable senators to determine where these people exist, because they are to be found in all provinces. Let it be repeated that the government is considering the proposition that the availability of the French language in air traffic control under certain conditions in the province of Quebec may well enhance air safety standards, improve them, make them even better. If this fact can be demonstrated, it should be welcomed by the Canadian people. However, the government proposes to determine the facts separated from the rumour and the fiction. Should this contention of greater safety be borne out, a second language will be available under certain conditions and certain circumstances at certain airports in the province of Quebec.

● (1530)

My honourable colleague made reference to the regulations which apply internationally. I need not quote from them again. However, he has demonstrated that this is not an unusual procedure. English and second languages are available under certain circumstances at airports in many parts of the world. Yet the eminently sensible proposal by the government to ascertain the facts, has precipitated on the part of some, it must be said, malevolence, ill-will, rancour, and misunderstanding. Surely, this is a time for the moderates to speak out against the extremists, those vocal pyromaniacs whose actions are threatening the unity of this country. Some people who should are not speaking out about their concerns, but concerns exist in every province. The great majority of Canadians are moderates, men and women of good will. But unity is threatened, as the Prime Minister stated the other night, by an intolerant minority, some of whom are attempting in the name of "air safety" to seize upon the current controversy to clothe their shoddy prejudices with respectability. They are not going to succeed.

The Bible says, "Let us sit down and reason together." I suggest, honourable senators, that it is still the best procedure for individuals, for families and nations and certainly for the ultimate resolution of the dispute now facing Canada.

On motion of Senator Carter, debate adjourned.

The Hon. the Speaker left the Chair.

Hon. Maurice Bourget in the Chair.

CRIMINAL LAW AMENDMENT BILL (NO. 2), 1976

FIRST READING

The Hon. the Speaker *pro tem* informed the Senate that a message had been received from the House of Commons with Bill C-84, to amend the Criminal Code in relation to the punishment for murder and certain other serious offences.

Bill read first time.

SECOND READING—DEBATE ADJOURNED

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

Senator Lang: Honourable senators, with leave of the Senate, I move that this bill be read the second time now.

The Hon. the Speaker *pro tem:* Honourable senators, is there unanimous consent?

Senator Flynn: I have no objection to giving leave but I think it would be useful for honourable senators at this

time to have the Leader of the Government indicate how this matter might be dealt with. I understand that, other than Bill C-58, this is the last piece of legislation to be dealt with here before we adjourn, in anticipation of prorogation on October 12 and the opening of a new session on October 13. Perhaps, following the discussions we have had, the Leader of the Government at this time would like to indicate what his views are.

Senator Perrault: I thank the Leader of the Opposition for inviting me to comment on this situation. Depending upon the course of the debate, it would be the intention to have a vote on the second reading and third reading of Bill C-84 at 11 o'clock on Friday morning, but again that must depend upon the course of the debate. There will be no attempt at all to restrict the opportunity and, indeed, the right of all senators to participate in this debate, should they so desire.

The proposal will be to adjourn the debate on Bill C-84 this afternoon for consideration by senators of the various clauses of the bill, to enable them to develop their thoughts on the subject, and then at 10 o'clock tomorrow morning to meet once again to resume the debate on the subject of the bill, which may continue all day tomorrow, with an appropriate adjournment for lunch, with the possibility of the Senate's meeting at 9 or 10 o'clock on Friday morning.

Honourable senators, there will be a sitting of the Senate at 8 o'clock tonight to discuss Bill C-58, which is another measure before the Senate.

Senator Deschatelets: May I ask a supplementary question of the leader? If the speeches are concluded on Thursday evening at approximately 10 o'clock, what would prevent the vote from taking place at that time instead of Friday morning?

Senator Perrault: Following the procedure in the other place, it is thought that the establishment of an approximate time for the vote will serve the purpose of permitting all senators, who wish to vote on the subject, to make certain they are in the chamber at that time. That will be the general goal, to have the vote at 11 o'clock Friday morning.

Senator Flynn: I am wondering if perhaps the Leader of the Government would introduce a motion to make it an order of the house that, if the debate is concluded, the final vote will take place at 11 o'clock on Friday morning so as to enable all those who wish to attend to be here at that time. In that way we know exactly when the vote is to take place.

It appears from the discussions we have had with the leader, the deputy leader and the whip on the government side that, having regard to the number of senators who have indicated their intention to speak, we should normally be able to complete the debate within that time and have the vote. If it is the wish of the Senate, and if it is moved by the Leader of the Government, we would agree to make it an order of the house that the vote will take place on Friday at 11 o'clock in the morning if the debate is concluded at that time.

Senator Perrault: Honourable senators, consideration will be given to the introduction of a motion, and it will either be tomorrow or this evening. The idea certainly has some merit.

The Hon. the Speaker *pro tem:* It is moved by the Honourable Senator Lang, with leave of the Senate and notwithstanding rule 44(1)(f), that this bill now be read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Daniel A. Lang: Honourable senators, I am rather pleased to direct the Senate's attention to a matter somewhat less controversial than the matter which has been the subject of the preceding debate. I say that rather facetiously, for sure—

Senator Flynn: Are you sure? I think it is the other way around.

Senator Lang: —because this is, as honourable senators know, the no-hanging bill which has been one of the most serious matters not only before the House of Commons in these latter weeks but before the Canadian public.

Of course, honourable senators need not be reminded that the subject matter of this bill has been before this chamber continuously during this session in the form of debates on private members' bills. We have certainly had between eight and ten speeches exhaustively exploring the pros and cons of the issue. I know we are all familiar with the pros and cons.

Not only that, honourable senators, but many of us have been through this same exercise twice before, right here in this chamber. You will recall that the matter came before us in 1967 when a bill was introduced dividing murder into two classes: first, planned and deliberate murder committed during the execution of certain crimes of violence and, on the other hand, murder of police officers and affiliate types of officers, which was termed capital murder and retained the possibility of the death sentence; and, secondly, all remaining murder which fell into the category of non-capital murder with no possible death penalty.

● (1540)

At that time I think all of us agonized—and I use the word "agonized" advisedly—over the pros and cons of this momentous and deep-seated issue. It was the first time that we had been faced with making a legislative decision in this area, and we did so, both in the House of Commons and here, after much searching not only of our own hearts and minds but of the hearts and minds of others. That bill was passed. In the bill there was a proviso calling for the expiration of that law within a period of five years. Accordingly, five years later, the issue came back to Parliament and at that time we were faced with a bill once again altering the definition of murder, and confining murder subject to capital punishment to the murder of prison guards and similar officials. All other murders were not subject to the death penalty.

I think at that time many of us who had been through the debates of 1967 felt that to make up our minds again was not very difficult, because, in fact, we had theretofore established in our own minds what the principles were, and we recognized that the bill of 1972 was merely an extension of the same principle, but again narrowing those classes of murder subject to the death penalty.

Finally, once more, and as provided in that bill for the expiration of a five-year period, we are dealing with the same subject. The five years have, in fact, not as yet

expired, but we are dealing with it in anticipation of that expiration.

By this bill we are being asked to drop capital punishment entirely. The only people who will be thus personally relieved are those who have already murdered prison guards and similar officials, or who may do so in the future.

In reality, therefore, honourable senators, it has taken us approximately ten years to effect the abolition of capital punishment.

Senator Flynn: No. It has been with us for 14 years.

Senator Asselin: The first discussion was in 1959.

Senator Flynn: No one has been executed for 14 years.

Senator Asselin: Since 1962.

Senator Lang: Some honourable senators have longer memories than I.

Senator Flynn: You have a more convenient memory.

Senator Lang: Nevertheless, the principle has not changed. It has taken us a long time to come through this evolution. I think that was inevitable. We are dealing here with an issue that is black or white. Capital punishment is either good or bad. It is either necessary or it is not necessary. I find that the compromises we have been making over the years, in one way and another, in some cases stretching our consciences and in other cases suppressing our fears, have not necessarily been desirable, but were probably inevitable, in order to bring about what is a quite revolutionary concept in our criminal law.

For myself, honourable senators, I confess to being an abolitionist. I recall very well that in 1967, when we dealt with that issue, I, like the rest of the Senate, attended meetings on it, at which both retentionists and abolitionists addressed us. I read statistics until I began to become dim of sight. I listened to speeches on public platforms. As a result of that exercise, I must say I came to just one conclusion, which was that to prove or disprove either the argument for abolition or the argument for retention, statistics can be found covering both the local level, the continental level, the Western World and the whole world. I also came to the conclusion that you can read articles or books, you can find quotations from academics, learned legal minds, lay minds, policemen, and others, all claiming a knowledge of the subject, and that you can pick and choose among the best of them. You can pick and choose which ones support your predilections. I also concluded in addition, honourable senators, that you can attend all the forums, symposiums, rallies and meetings on this matter that you wish, and you will find that the people present are, by and large, bringing to those meetings their own predetermined bias.

I suggest that today really nothing has changed as far as that sort of thing is concerned, and I do not think that anything I may say to any one of you this afternoon is going to change by one iota the convictions that I am sure you are all now harbouring after the examinations of conscience and the long discussions that have taken place during the years that have passed.

I am further convinced that notwithstanding press reports to the contrary, this holds true in the House of Commons. Perhaps in that place a few votes may shift under duress or entertainment, but I am sure convictions do not.

Senator Flynn: The result is inevitable, just the same.

Senator Lang: Honourable senators, if you ask anyone why he is an abolitionist or a retentionist, I think that in all honesty he would have to admit that he could give you no simple answer.

I could profess that I am an abolitionist because capital punishment is not a deterrent. I could profess that I am abolitionist because capital punishment is a "cruel and unusual punishment" within the meaning of the Bill of Rights. I could say that I am an abolitionist because capital punishment is immoral. I could say I am an abolitionist because capital punishment degrades and corrupts the society that imposes it. I could say that capital punishment is an expression of senseless vengeance exacted by society. I could say that I am an abolitionist because capital punishment militates against convictions under our criminal law in favour of acquittals, simply because juries are reluctant to sentence someone to death. I could confess to being an abolitionist because of the obvious fact that judicial error becomes irreversible in capital punishment cases.

● (1550)

However, in all honesty, honourable senators, I do not think that any one or all of those arguments have made me an abolitionist, or that any one or all of the countervailing arguments that could be put forward have made anyone else a retentionist. Our personal positions are determined by a multitude of factors, both conscious and subconscious, both objective and subjective, and particularly by our respective places now in time, in history and in geography.

Honourable senators, having said that, may I briefly draw your attention to some of the specific clauses of Bill C-84 and I shall only refer to those which may be of particular significance during this debate. Clause 2 deals with treason, and for the first time treason is divided into two classes, high treason and treason. It removes the death penalty for high treason and substitutes therefor a mandatory sentence of life imprisonment. Throughout the next few moments I shall be referring to the words "life imprisonment" and I hope you will, in your mind's eye, take the words as being in quotation marks and I should like to deal with their meaning more specifically when I come to them.

Clause 4 divides murder into two categories, first degree and second degree. First degree murder is defined in that clause as being planned and deliberate murder, and that would envisage such things as murder by organized crime and, secondly, murder of police officers, prison officials and guards. All other murder then becomes second degree murder.

It is interesting to note that under the proposed subsection 214(5) certain offences are included by reference in the category of first degree murder, namely, killings occurring during the hijacking of an aircraft, kidnapping, rape, attempted rape, et cetera.

Honourable senators, the purpose of those distinctions, both in the classes of treason created and the classes of murder created, become real rather than apparent when one looks at the definition of "imprisonment for life" contained in clause 21 of the bill. Under that clause high treason and first degree murder are lumped together and

call for a mandatory twenty-five year sentence as being "imprisonment for life." In the case of second degree murder or treason the mandatory "imprisonment for life" sentence is ten years.

However, with respect to the ten-year provision a judge is required to make a declaration to the jury, as set out on page 9 of the bill, and he must inform the jury that if they so wish they may recommend a term in excess of ten years but not in excess of twenty-five years during which period of time the convicted person would not be able to request parole.

Of course, honourable senators, this definition of life imprisonment runs right across the other sections of the Criminal Code, the provisions of the Parole Act and other statutes dealing with persons convicted of serious offences, and makes the certainty of their remaining in penitentiary very great. I can conceive of many arguments on the merits or demerits of such mandatory terms as are contained herein, but I think that in truth they reflect the real concern abroad in Canada today over the release of prisoners who become repeaters.

There are clauses in the bill—and I am not referring to them specifically—providing for appeals by persons convicted of murder, providing for appeals on that part of a term of imprisonment in excess of ten years in the case of second degree murder, and providing for appeals on that part of the term in excess of fifteen years for those who are convicted of high treason or first degree murder and for whom life imprisonment means a twenty-five year compulsory sentence.

Honourable senators, it is not a simple formula, and I am afraid that in my explanation I have not made it any simpler, but it does, to my mind, represent a reasonable and fair mix as between the necessity for firm prison terms and for the element of mercy in the parole provisions, both of which, combined in this bill meet the needs and expectations of the Canadian people today.

Senator Choquette: May I ask the honourable senator a question regarding "recommendation by jury," which is to be found on page 9?

Senator Lang: Certainly.

Senator Choquette: It seems that the new section 670 deals only with the question of a jury which recommends that the time to expire before eligibility for parole shall be ten years or more, but there is no provision that the jury can say that it should be less than ten years.

Senator Lang: That is correct, senator. They can recommend more than ten years, but they cannot recommend less. Of course, that is only a recommendation, and the judge may or may not accept it. If, for instance, they recommend thirteen years and the judge accepts that recommendation, then there are provisions whereby the accused could appeal against that extra period of three years.

You will also find in the bill, honourable senators, under clause 25, transitional provisions which you will immediately recognize as being necessary to accommodate situations where trials may occur in the future for crimes which were committed before this date, and to accommodate situations where there are people in prison now convicted of murder under the Criminal Code as it stands. Basically these transitional provisions bring all matters pending, or matters determined under the present Criminal Code and dealing with capital punishment, under the provisions of this bill.

● (1600)

Honourable senators, in conclusion, I hope you will support this bill. I presume, although my leader has not given me any instructions on this, that it will be a free vote in the Senate but, of course, it always is a free vote in the Senate; I recognize that.

Senator Asselin: We hope.

Senator Langlois: That is always true.

Senator Lang: This subject matter is not, in my opinion, particularly appropriate to be dealt with by this house after it has been dealt with by the House of Commons. We are dealing with a matter of the broadest public policy in a very sensitive criminal area and, in my opinion, to in any way attempt to second-guess the elected members of Parliament herein would be a great mistake for us. I, as are all honourable senators, am aware of the vehemence of public opinion with regard to this issue in Canada and the strong retentionist sentiment that is abroad, certainly in areas of Ontario with which I am familiar. I know that this has not made the task of those members of the House of Commons, whose consciences make them abolitionists, any easier. I for one do not wish to make the resolution they have now come to any more difficult than it is for them to live with and, honourable senators, they are really the ones who have to live with it.

On motion of Senator Asselin, debate adjourned.

The Senate adjourned until 8 p.m.

At 8 p.m. the sitting was resumed.

INCOME TAX ACT

BILL TO AMEND—REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED AND PRINTED AS AN APPENDIX

Leave having been given to revert to Reports of Committees:

Senator Hayden: Honourable senators, I desire to present the report of the Standing Senate Committee on Banking, Trade and Commerce on Bill C-58, to amend the Income Tax Act.

In some aspects it is unusual in that the committee followed a direction from the Senate to give further consideration to its report on Bill C-58 and to report back to the Senate. I now present the report, which is of some length, and the Clerk at the Table will deal with it.

The Clerk Assistant (*reading*):

> The Standing Senate Committee on Banking, Trade and Commerce to which was referred back for further consideration its Report on Bill C-58, "An Act to amend the Income Tax Act," has, in obedience to the order of reference of July 7, 1976, re-examined the said report and now reports as follows:

Some Hon. Senators: Dispense.

The Clerk Assistant (*reading*):

For the reasons above stated, satisfied as the committee is that the principles which influenced its consideration of Bill C-58 and were reflected in the original report of the committee are met by government undertakings, and with genuine concern for those who will still be adversely affected by Bill C-58, the committee now reports the bill without amendment.

Respectfully submitted,

Salter A. Hayden,

Chairman.

Senator Hayden: Honourable senators, I should like at this time, with leave of the Senate, to give an explanation of the considerations which led to the making of this report, and I would ask that the report be printed as an appendix to the *Debates of the Senate* and to the *Minutes of the Proceedings of the Senate* of this day and form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report see appendix, p. 2401*)

Senator Hayden: Honourable senators, this is an unusual situation. I doubt if there would be two cases in the course of my time in the Senate that a committee report has been referred back for further consideration and report. However, there is always a first time, and the committee, in compliance with the order of reference of the Senate, has reconsidered its report.

In addition, the committee is fully aware of the circumstances which may have led to the reference back to the committee, by reason of the differences between the original report of the committee and the bill which we were reviewing, and the present situation in relation to the summer recess, which always induces some pressure.

In those circumstances, we have looked at the report to see if there is any area within which we can relate the original report and its amendments with the government's policy in this direction, and whether this could be done short of requiring an amendment to the bill. In the course of so doing we heard, as witnesses. the Minister of Communications, the Honourable Jeanne Sauvé; the Minister of National Revenue, the Honourable Jack Cullen; and, finally, the Secretary of State of Canada, the Honourable Hugh Faulkner.

Honourable senators must remember that there was a provision in Bill C-58 under which the broadcast sections did not come into force until a date fixed by proclamation. The Secretary of State of Canada, in a statement to the House of Commons on January 23, 1975, before the bill had been introduced in that house, when referring to the broadcast amendments and this proclamation, said that the bill would not come into force until the government was satisfied that the needs of the advertising industry had been met satisfactorily by the broadcasting stations. This was a condition that the Secretary of State had imposed on the implementation of the date for proclamation to make the broadcast provisions effective.

In one of our amendments in the original report we had provided a procedure for determining whether that condition was satisfied, and whether the needs of the advertising industry were satisfied, by the broadcast stations, which was that a motion would be introduced in the House of Commons to deal with the determination of the issue whether the needs of the advertising industry were adequately met by the broadcasting stations. In addition to being approved by the House of Commons, the motion had to be concurred in by the Senate. This, of necessity, required an amendment to the bill, and it therefore required that the bill go back to the House of Commons. I think this was the difficulty that in this chamber brought about the reference back to the committee of its original report for further consideration.

When we had the Minister of Communications, Madam Sauvé, before us she made several statements. One was that she was prepared to implement the conditions laid down by the Secretary of State. In other words, she proposed to make a determination that those conditions had been met. When we suggested to her that this might be done by a hearing, and that she might herself conduct the hearing, she agreed that it was her duty and obligation to make that determination, and she was prepared to make it; she was prepared to conduct a hearing herself, and was also prepared to receive representations and briefs from all persons who might be affected by the bringing into force of the broadcast provisions. That meant that as and when she did make such a determination and fix a date for the coming into force of these provisions, all the advertisers and broadcasting facilities in Canada would be affected by that decision—those in Toronto and Vancouver. She agreed that there was no problem as far as Vancouver was concerned, because this was a new station. It was proposed that the new station would open on or about September 1. She did admit, however, that so far as Toronto was concerned, there was a problem in that there was evidence which might indicate that the needs of the advertising industry could not or might not be adequately met by the broadcasting stations in that area, because of there being full occupation of their prime time.

She undertook to conduct an inquiry and, after hearing briefs and representations, then make a determination. If she determined that the Toronto facilities did not meet the test that was laid down by the Secretary of State of Canada as a condition, in his statement to Parliament in January 1975 before Bill C-58 was even introduced into the Commons, she would deal with the matter of determination of a date accordingly. If, in her opinion, after considering the briefs and representations, it appeared that those needs were met adequately, then she would, of course, make a determination earlier.

Your committee felt that in those circumstances, the objectives of her undertaking were exactly the objectives which your committee had in mind when it proposed dealing with this by way of a motion in Parliament—in other words, to assure that there was such a determination of the condition laid down by the Secretary of State of Canada, before the broadcast sections were proclaimed.

Your committee was not vain enough to think that there is only one way to do something, and was not vain enough to think that the way we proposed is the only way of

accomplishing that purpose. Therefore, we were satisfied to accept the undertaking of the minister to conduct a hearing or an inquiry with this object in mind, and with this obligation to implement conditions laid down by the Secretary of State of Canada. We therefore say we are not insisting that our amendment be the one that is recognized and thus force amendment of the bill—depending on how the Senate responded in its consideration of our report.

If our original report had been adopted, the effect of it would have been that the bill, of necessity, would have had to go back to the House of Commons. Therefore, by this undertaking, we had disposed of the first major objection, a matter of principle, that this determination of needs be adequately met would be satisfied.

The next problem related to the question of interpretation of "substantially the same." As you will recall, in the original amendment to the Income Tax Act in 1965 there was a provision under which non-Canadian newspapers and periodicals could qualify for a Canadian status. One test was that the content of such publication in Canada has to be, at least by interpretation in the Department of National Revenue, 80 per cent different from the content of an issue of the magazine published outside Canada. Therefore the Minister of National Revenue had ruled—it is not in the bill, but he had ruled as a matter of interpretation—that the content rule had to be 80 per cent. In other words, if the magazine published in Canada did not meet the test that at least to the extent of 80 per cent it was different from the issue of the magazine published outside Canada, then it did not meet the test and the advertising costs were non-deductible for income tax purposes.

● (2010)

So we, in the course of our original hearing, had challenged the minister on the basis that under the law the determination of "substantially the same" by percentage had been declared a legislative act. In other words, in all the instances where these words "substantially the same" occur—and there are perhaps hundreds of them, and hundreds of decided cases on this point—such a percentage qualification or test is a legislative act and, therefore, has to be done by Parliament. The minister could not, therefore rightfully determine this in the course of his administration and by the exercise of ministerial discretion.

We had suggested and proposed an amendment under which there would be an obligation on the Minister of National Revenue to refer that question to the court for determination. Again, the objective of our amendment turned out to be the same as the objective of an action which the Minister of National Revenue proposed to take at the next session of Parliament. So when the Minister of National Revenue appeared before us he undertook that at the next session of Parliament he would introduce a bill defining "substantially the same," and providing in terms that it meant an 80 per cent content difference as between the Canadian issue published in Canada and the issue published outside Canada. There we saw both objectives were the same—that is, to arrive legally at a position where there could be a legal interpretation of what those words meant.

We also decided after consideration that there were greater advantages to the taxpayer in having this done by act of Parliament that in having it done in the manner in which we had suggested as an amendment—that is, the obligation on the minister to refer the question to the court—because, if you refer it to the court, the court deals with the particular case, and the decision is on the facts of that case only, and on an examination of the issues published in Canada and the issues published outside Canada. It is not in any way to be regarded as a precedent, because the facts may vary from one issue to another. But in the case of an amendment to the Income Tax Act defining the content difference as 80 per cent the House of Commons, first of all, has to approve it, and secondly, the Senate has to approve it. Then there is the opportunity for consideration of alternatives, and when you do get final approval you have an interpretation of general application.

Therefore, we felt that the objectives could reasonably be said to be about the same, and as a consequence we had no hesitancy in saying, "Well, we are not vain. We are not wedded to the method we proposed. Therefore we will accept the minister's undertaking to define these terms by an act of Parliament." We were persuaded, in that regard, that we should not insist on the amendment we had proposed. These two things, we felt, reaffirmed the rule of law and the supremacy of Parliament. This was the keynote of our original report.

There was one other thing that the Minister of Communications undertook to do. We had dealt with the question of international relations, and we indicated that we had heard a great deal of evidence in connection with the situation in Canada and the United States and the relations in the broadcasting industry as between those two countries, but that we felt our terms of reference were not sufficiently wide to enable us to go into much detail. The Minister of Communications, however, undertook very readily to set up a committee, or, as she called it, "a body of people," who would be charged with the responsibility of dealing promptly with the question of broadcasting relationships as between Canada and the United States. She did not feel it could be done in the existing committee, which was charged with dealing only with commercial deletion. She felt that the subject matters were so different, and the representation of Canada and the United States was so different on the question of commercial deletion, that it would be better to deal with this other question by means of another committee.

Our main concern, however, was that we should have a committee which was readily available, and which could give more immediate consideration to these problems that were so vexatious and irritating. We were even more concerned when Mr. Boyle, who is the president of CRTC, said to us that the problems which are on the horizon, or perhaps even closer, in the broadcasting area are bound to be more complicated than the ones we presently have in the broad field of broadcasting. We were, therefore, very appreciative of this undertaking, and we felt that this was a plus in our consideration of the bill.

There were two amendments that gave us some concern, but they were not of the importance that the first ones which I have mentioned were regarded as having. The first amendments were problems of major importance in our assessment, and involved principles. We were not going to give up anything that related to principles.

However, we had also suggested two other amendments, one having to do with the retroactivity of Bill C-58, and the other having to do with the magazine called *MD of Canada*.

● (2020)

First of all, honourable senators, as to retroactivity, under the bill the date for the coming into force of the clauses dealing with magazines and periodicals was January 1, 1976. We are now in the middle of July 1976, and this bill has not yet become law. But the moment it does become law, its provisions will date back to January 1, 1976, and advertisers who have been advertising in non-Canadian periodicals in the meantime—that is to say, since January 1—find themselves in the position where their advertising costs will not be deductible before the calculation of income tax, and we suggested an amendment under which that date for the coming into force of these particular clauses should be January 1, 1977.

This raised a number of questions which we had to consider. Because such a change would involve an amendment to the bill, we construed the reference back as meaning that we should try to find some way by which matters could be dealt with without the necessity of an amendment to the bill, and we sincerely followed that injunction. Then, when we looked at the clauses, we found that there were only two groups that might be affected by this retroactivity—one was advertisers in *Time* magazine and the other was advertisers in *MD of Canada*.

So far as *Time* was concerned the advertisers would have recourse under section 17 of the Financial Administration Act and, if they could establish hardship, they could apply for remission of the tax. But the evidence before us showed that in order to secure that advertising and those advertising contracts, *Time* had established an advertising rate which was two-thirds less then the general or regular advertising rate, and, in addition to that, some of the advertisers insisted upon and obtained a guarantee against loss. So that posed the problem of who is hurt by this provision. The advertisers in *Time* who had been subject to this non-deductibility for 1976 might have difficulty establishing they had been hurt—in other words, that they had suffered hardship—because they had been compensated. The lowering of the rate was compensation for the non-deductibility of the cost of advertising for income tax purposes, and in our view the remaining factor—that is to say, the number who might be affected—would be very small, if there were any at all.

In the case of *MD of Canada*, it was a small operation, and there was no way except by an amendment to the bill to postpone the exemption which they enjoyed up to that time and thus protect the magazine. The advertisers would be affected. So, when we weighed all the things, we decided that the public interest and the real value of this bill—remember, we did not attack the principle of the bill and neither had the Senate itself, because the principle was approved on second reading in this chamber. We had not proposed any amendments which would erode the principle of the bill. So the net result of all this is that the committee has concluded in its report, because of the great value of the concessions we obtained by undertakings in major areas, undertakings which reinforced the rule of law and the supremacy of Parliament, and the fact of the undertaking of the Minister of National Revenue to amend the bill and define "substantially the same" and the advantages which it gave to the Senate and the House of Commons to challenge effectively the content rule, that we had benefits which were of great importance. Therefore, on that basis, we concluded that we could report the bill without amendment.

We have said in our report that it is with genuine regret that we are not able in the circumstances to deal with *MD of Canada*. It is a small operation, but I suppose even a small operation is entitled to consideration. However, in our opinion, when all the benefits are put in the scales and the circumstances under which there may be some hurt to some people—and it is not too clear as to what they may be, or the extent to which they may go—are added, the public interest would best be served by reporting the bill without amendment and giving the opportunity to the industry—that is, the publications industry and the broadcasting industry—to establish that the objectives which were laid down by the government to be accomplished if this bill came into effect would be actually accomplished.

We did not receive much help from the Secretary of State of Canada.

Senator Walker: That is an understatement.

Senator Hayden: As a matter of fact, he appeared before the committee the day following that on which the Minister of Communications and the Minister of National Revenue appeared, and I must say that the feeling of the committee with respect to them was that they were very cooperative, very understanding and very fair in their consideration of the problems and meeting the position which we presented to them. We regarded our position at that time as being a charge from the Senate to re-examine the circumstances and to see if there were ways in which we could come back to the Senate with a report that would permit the passage of the bill without amendment. They understood that and, as a matter of fact, when we opened the meetings with these two ministers present I made the statement to them that this was not a situation in which we were meeting to study the bill, but were meeting to study ways in which we could resolve, if possible, the differences between the original committee report and the position of the government on this matter. In that light they were very cooperative—the Minister of Communications particularly so, and certainly Mr. Cullen.

● (2030)

We put two propositions to the Secretary of State of Canada—on *MD of Canada* and retroactivity. He was to confer with his colleague, but he did not come back to the committee. He may have reported to the government leader. It is quite likely that he did so. But having said that he would consult and come back, and he did not do so, we were a little concerned about that and felt that we were not getting cooperation. But notwithstanding that, we felt that the two ministers whom I have mentioned made a great contribution to enable us to make the consideration of the case which we have described in our report.

If honourable senators look at the report, they will see—they do not have to accept my word—actual quotations as to the undertakings of the Minister of Communications and the Minister of National Revenue on the points which I have stated. So there is no question about the undertakings. Honourable senators will see quotations as to the

Minister of Communications' undertakings in relation to international relations and the establishment of a committee to deal with a very troublesome and irritable situation, that of our relations with the United States generally in the field of broadcasting.

Those are the conclusions we came to, and on the basis of what we had before us we were prepared to recommend that the bill be reported without amendment.

Hon. David Walker: Honourable senators, before speaking about the chairman of the Standing Senate Committee on Banking, Trade and Commerce, I want to thank Senator Davey and Senator McElman for the help they have been to us. They have been of tremendous help and assistance—and we never contemplated it from that quarter. I cannot help but admire Senator Davey because of his distinguished appearance. I try each day to determine whether he looks and acts like Napoleon Bonaparte or Winston Churchill.

Senator Langlois: Both.

Senator Walker: It could well be both. Honourable senators will remember the old school poem:

He scowled, he frowned,

I shook the ground,

I trembled through and through.

He takes the long walk, the glasses down over his nose, the jutting chin, the impressive voice, the piercing eyes; he holds forth, and he is very, very impressive. In other words, Davey gets what Davey wants—to a point, of course.

Then his assistant—a most astonishing person—Senator McElman—

Senator Robichaud: Honourable senators—

Senator Walker: You are not the Prime Minister's assistant. You are in reality the first minister. Senator McElman is a very able person. He told me so himself. I know that he was trained as a stenographer; he knows shorthand, and he is a great help. He was to Premier Robichaud, and I wish he were here tonight, because the thing that I like about him is—

Senator Robichaud: I am here, and I am listening to every word that you are uttering at the moment.

Senator Walker: That is very good.

Senator Robichaud: There are certain things I disagree with.

Senator Walker: I hope you will reply when you get an opportunity. McElman is remarkable because—well, I love those Newfoundland jokes. I go to Senator Carter every once in a while to get a new joke. I have to have a hero for those jokes in order to understand them. I discovered a solution, and in the middle of the night I can always have a laugh. I listen to one of Senator Carter's jokes, and then I put Senator McElman in the hero's role, and it really turns out to be humorous.

Honourable senators, those two people have been of great help to us, and I will tell you why. In their own way they have turned so many senators in favour of opposing this bill. The turnover was amazing. The opposition to this bill was nothing in the beginning, but it became greater and greater as time went on. On this side of the house we could not figure out why so many Liberals would turn against the bill with anger and determination, and we found out that it was because of the actions particularly of Senator Davey, assisted by Senator McElman, in connection with the bill.

We owe a great debt to them because of their actions throughout. We had the house so divided, and so many were opposed to the bill—both Liberals and Conservatives—that it became a non-party matter, and had we had a vote two weeks ago we would have won. But our people heard there was going to be some kind of settlement worked out by the genius who has just spoken tonight, Senator Hayden—a very exceptional leader. I do not always support him, but he has done a remarkable job in this instance.

Hon. Senators: Hear, hear!

Senator Walker: He was instrumental in bringing this thing to the settlement which we have at the present time. And may I say this, that with the help of Senator McElman first and Senator Davey second—in accordance with the wishes of Senator Davey, which I know are very sincere—we almost won this thing without any compromises at all, just on a straight refusal of the bill. But, by the time the Senate got the bill, *Time* had succumbed. It was chopped down; it was massacred; it was murdered. It did not even have a chance, thanks to—I do not think it was Senator McElman at this time; I am sure it was you, Senator Davey—the brilliance of Senator Davey, assisted by his minion in the ministry—what is his name now?—oh yes, Senator Faulkner.

Senator Grosart: He is not a senator.

Senator Walker: Surely I am not insulting the Senate. It is the Honourable Mr. Faulkner. Assisted by him—

Senator Robichaud: You are wrong about Senator McElman.

Senator Walker: Before you make any remarks, Mr. former Premier of New Brunswick, you had better consider what Senator McElman says about you with great regularity.

I may perhaps carry on now for a moment. These things have happened constantly. *Time* succumbed. Nothing we could do could revive it. Stephen LaRue did not come. He was scared. He was frightened to death of Faulkner. He never did get an appointment with him. He never did have an opportunity to come to Ottawa and discuss with him the purport of this bill and the 80 per cent rule. He never had a chance to explain his point of view. He just got mad, and succumbed.

I think it is a shocking thing, because had he fought on in the way *Reader's Digest* did I think *Time* could still be here as a good Canadian magazine, which no less a person than our late friend, the deceased Senator Grattan O'Leary, described as probably the greatest news magazine in the history of the world. But *Time* passed out. They were scared to death by my friend over there. They passed out. The only time we saw the president was at a meeting of our committee which turned out to be a memorial service in honour of the deceased *Time* Canada.

It was too bad. I cannot do anything but condemn him. I wonder how he is employed, if he is still employed, by the American *Time*? I am amazed at the manner in which he abjectly lay down and got tramped upon by my friend over here—and when he gets tramped upon by him, it's a mighty tramp.

● (2040)

Senator Davey continued his great crusade to help the downtrodden publishers, the poor benighted publishers, and the Canadian public. I may say that he is a great advocate, and if a person is a great advocate he must have a sense of compassion. As much as I admire the advocacy of my friend, and his gestures while he advocates, I still cannot understand his lack of human kindness, his lack of consideration for, I was going to say, almost anyone, although he talked of the poverty of the broadcasters and the publishers, and mentioned particularly Maclean-Hunter. Poor Maclean-Hunter. In this year, their profit for the first five months is $2.5 million. Then poor little gallant CITY-TV. Think of the terrible way they have been treated. They have been financed by the big money in Toronto. They have no seat in their pants, Senator Davey inferred. He did not use those words—he is too cultured for that—but that is what he was indicating. Do you know what the draining of the millions and millions of dollars to the United States by these American companies that are getting the advertising here amounts to? Twenty million dollars a year—peanuts.

Senator Choquette: Gross.

Senator Walker: Of course, it is gross. There is a substantial difference. Here we have the image created by Senator Davey of a poor, tiny country bleeding to death. If these inflammatory statements were introduced in a court of law they would cause an immediate mistrial. But in the Senate, of course, being the super-intelligent body that we are, these statements go unchallenged, but not unlaughed at.

Senator Davey conducted his crusade with an energy I have never seen matched by any man in public life, with his devotion to the cause of the Star Publishing Company, that magnificently organized company of many, many facets and magazines—you name it, they've got it—and also the cause of the great empire of the Maclean-Hunter Publishing Company. The way he worked for the cause of those people was something I shall never forget. It was a lesson from which we should all profit. It was something we should all emulate. Now, mark you, I have not his skill of phrase. I can never hope to compete with him there. I can only tell you of the ability he showed, not only through the days but the weeks and weeks and weeks during which we wrestled with this problem.

Senator Davey: And more weeks.

Senator Walker: That is very clever, very good, Senator Davey.

Senator Davey: A very good speech.

Senator Langlois: Amen.

Senator Walker: So be it; quite right. Is that the interpretation of it, or "ainsi soit-il"?

Then there is Mr. Hodgkinson. It put a little spoke in the wheel of Senator Davey when I introduced what he had said. He is no more than the president of the Maclean-Hunter Publishing Company, and a short time before he heard the minister introducing this bill he had boasted—and they had published his boast—that no matter what *Time* did, Maclean-Hunter could not only get a market for a news magazine but could even outdo *Time* in a matter of time. That is not a pun either. They were willing to go on with *Time* and succeed, and when this great bonanza came—unsolicited of course, according to Senator Davey—to Maclean-Hunter and the Star Publishing Company, these two monolithic giants accepted it, and accepted it all gracefully.

You might ask whether I am supporting the bill. I am not supporting the bill as such. I am supporting the bill subject to the undertakings worked out by that genius—I wish he were a Conservative; he is a Liberal, but I still have to say this—the chairman of the committee and his subcommittee. The whole committee worked out the general undertakings, but the chairman worked out the details. They so turned that bill around that now we are getting pretty well what we originally anticipated. We are not getting everything, but it is far better to get this bill subject to the undertakings of the minister than to get no bill at all, or to have the original bill pass. I do not think that would please anybody.

I will not go over the undertakings again, because the chairman has just finished going over them. I was going once again to go over what had been accomplished on the three major points, plus dealing with *MD of Canada*. The committee has accomplished fabulous things. I know the undertakings of the ministers will be realized. They are men of their word, and a lady of her word. By the way, what a charming lady Madam Sauvé is.

Hon. Senators: Hear, hear.

Senator Walker: She could have been a great and beautiful actress. Also, she has got so much common sense. I was very impressed with her. I was also very impressed by an old friend of mine, Bud Cullen. To see him now as a minister, doing as well as he is doing, is very satisfying to me.

I will not go into the major undertakings described by Senator Hayden. He has pointed out how they changed the purport of the bill by undertakings. He has pointed out to me why I must support the bill, subject to the undertakings. Without them I would violently oppose it.

I am not in the habit of doing this, because I have had great differences of opinion with the Leader of the Government, but I must congratulate him. I must also congratulate his Whip. His great ability is that he is a gentleman. So is our Whip. It is a great thing to have a gentleman in charge of an undertaking such as this. I know that he got around and worried hell out of senators as he got more and more votes for the bill when it seemed to be tumbling overboard, so that people came in from all over Canada a couple of weeks ago. We knew everyone wanted to get away. We knew we had to make some kind of deal, and let us be frank about that.

I have paid the greatest tribute I can to you, Senator Davey. Don't look like that. At the moment you look like Napoleon. I like you better when you put on your glasses, lean over and look like Churchill. Lean over, get your

glasses down on the edge of your nose and be, not yourself, but Winston Churchill.

● (2050)

I pay a final tribute to Senator Hayden and to all members of his committee, particularly the subcommittee. I was not on the subcommittee and probably that is why it succeeded so well. All the members were able to come to their individual conclusions.

Senator Hayden has been an old enemy of mine for 45 years. We have always been on opposite sides. He is still on the opposite side. He is a Liberal and I am a Conservative. I have to give credit where credit is due. At no time in this Senate, not even in the time of Arthur Meighen, or great leaders on the Liberal side—I do not know their names so well by heart—has there ever been a man in the Senate with the peculiar ability of Senator Hayden, not only to interpret the law but to amend the law right off the top of his head. Senator Austin noticed this too. Senator Hayden made these remarks. He amazed me. Senator Hayden kept the ship together, aided by Senator Laird, Senator Lang, Senator McIlraith and my great friend, Senator Macnaughton, and others. I know I must have missed some.

Senator Beaubien: Senator Davey.

Senator Walker: Yes, Senator Davey and his friend Senator McElman, but they were not members of the Banking, Trade and Commerce Committee. We must admit that we got tremendous contributions from this side of the house from Senator Molson. He is not a Tory. He has always been a Liberal. Also, Senator Flynn and Senator Beaubien—

Senator Beaubien: Don't leave anyone out.

Senator Walker: Senator Smith.

Senator Denis: Colchester.

Senator Walker: Thank you very much, Senator Denis—Senator Smith of Colchester. This was a wonderful show that was put on. I am going to close. We are going to vote on this and I hope soon.

I do not think I have gone over to be a Liberal. However, I am amazed, dumbfounded, in spite of Senator—what is your name?—yes, Davey—that we should have come to this agreement. We do owe it all to Davey because he is the one who scared the hell out of the government because they were going to lose as a result of his actions.

My final word is this: Senator Arthur Roebuck was in the Senate until he was 90, and a very able senator he was. Senator Hayden is 80 and would it not be a wonderful thing, Mr. Minister and Leader of the Government, that a very rare honour should be conferred on Senator Hayden, that he should be made a member of Her Majesty's Privy Council in Canada?

Hon. Senators: Hear, hear.

Senator Perrault: Honourable senators, would you permit me just a few words?

The Hon. the Speaker *pro tem:* Honourable senators, I would like to know if this is in order. There is no motion before the house. Senator Hayden was allowed to make some remarks on the report, as was Senator Walker, speaking for the Opposition. I am in the hands of the Senate. If there is unanimous consent, Senator Perrault may proceed.

Senator Asselin: He has to obey the rules.

The Hon. the Speaker *pro tem:* We should not have a debate because there is no motion before the house.

Senator Hayden: Honourable senators, I move the adoption of the report.

Senator McIlraith: Honourable senators, it is unnecessary to move the adoption of a report when a bill is reported without amendment. It stands adopted. The applicable rule reads:

> When a committee reports a bill without amendment, such report shall stand adopted without any motion, and the senator in charge of the bill shall move that it be read a third time on a future day.

That is rule 78(4) and it is quite clear. Therefore, there is no necessity for a motion. We can move to the third reading stage and then remarks may be made.

Senator Smith (Colchester): Honourable senators, I realize the rule is there. I began to read it when the subject was first raised about an hour ago, but it seems to me that if some senators are allowed to speak, others who may have a different point of view should be allowed to do so.

Senator McIlraith: On third reading.

Senator Walker: Why do you not move third reading?

The Hon. the Speaker *pro tem:* That was my point. That's why I raised the point. Senator Hayden should have asked for leave to make certain remarks on his report because the rule is as Senator McIlraith just pointed out. I am in your hands. If the Senate wants to discuss this and we have unanimous consent, all right; otherwise, there is no motion before the Senate. Those who want to speak can do so on third reading.

Senator Smith (Colchester): In that case His Honour the Speaker is likely to rule that the report has already been accepted by the Senate and that it is out of order to discuss it, and that one must confine oneself to discussion on third reading.

Senator Choquette: Why not move third reading?

The Hon. the Speaker *pro tem:* Is there any objection to that?

Senator Grosart: Honourable senators, I would like to comment on a point of order. I would suggest that it is almost customary in this chamber to suspend our rules. I do not think there has been a single day when I have been here that we have not suspended two or three of our rules by merely asking leave. Senator Hayden did ask leave. Senator Walker presumed that leave would be given. I suggest, therefore, that we can carry on by suspending the rule which, incidentally, does not say there can be no debate. It does not say there can be no debate. It says that the report shall stand adopted without any motion.

This would not be the only time that we have had a discussion in this chamber without a motion before us. I suggest, therefore, if it is the wish of honourable senators to carry on and discuss the report, as distinct from the bill on third reading—and they are two entirely different things—that Your Honour could put the motion that Sena-

tor So and So may now speak with leave, which would be a motion that Your Honour could consider.

Senator Davey: Honourable senators, with leave, may I move third reading of this bill.

Senator Grosart: Nothing could be more out of order for an honourable senator, when a point of order is before His Honour, than to move another motion. There is a point of order on which I have sought a ruling from the Chair. I do not know whether Senator Davey's purpose is to prevent discussion of the report.

Senator Davey: The purpose is to expedite the debate.

Senator Grosart: The debate on the bill but not the debate on the report, and it is the report which is before us, and leave has been granted for a discussion of the report. Therefore, I suggest that the proper procedure for Your Honour would be to allow the discussion to continue with leave.

Senator Perrault: With leave, honourable senators, may I make a brief statement?

The Hon. the Speaker *pro tem:* Is it agreed? As I said before, I am in your hands. If you have no objection, all right. However, we must realize that according to our rules there is no motion before the Senate. Unless there is unanimous consent and leave of the Senate, I have to put the question on the motion for third reading. Is there unanimous consent?

Senator Asselin: On the point of order, if we give permission to the Leader of the Government and others to make some remarks, then we will have a debate.

The Hon. the Speaker *pro tem:* Is there unanimous consent?

Hon. Senators: Agreed.

Senator Perrault: Honourable senators, frankly, I would prefer to make my remarks on third reading, which I think would be in conformity with the rules of this chamber, but I am in the hands of the Senate. I have only a short statement to make, a non-acrimonious statement.

● (2100)

Senator Grosart: You will have to get leave to speak on third reading, so be careful.

Senator Smith (Colchester): It seems likely that I will not receive unanimous consent to speak now; nevertheless, I will put that to the test by asking for leave to speak now.

Some Hon. Senators: No. Speak on third reading.

The Hon. the Speaker *pro tem:* I am sorry, Senator Smith, but I do not hear unanimous consent. One solution would be for honourable senators to agree with me that there should be more liberty on third reading, let us say, and that everyone should be able to speak on third reading. Nor should it necessarily be restricted to third reading; in my opinion, it should also extend to the report, if it is the will of all honourable senators. That might be one way out of the difficulty, and in that case everyone would be treated fairly in the circumstances and every senator would have a chance to speak. Would that be acceptable?

Senator Smith (Colchester): Honourable senators, I would be glad to accept that suggestion. I just want to say that I do not agree with the report, and then say why.

[Senator Grosart.]

Some Hon. Senators: Speak on third reading.

Senator Grosart: It is easy enough for honourable senators to say "third reading," but leave would have to be given, and it just might not be given. I do point out that we have a report before us, that a debate has started, and that the debate has been on the report. There are matters which honourable senators may wish to raise about the debate that has already taken place on the report, and I would therefore suggest that senators be given leave. If not, just say no, and we will wait until tomorrow.

Senator McIlraith: Go ahead and continue the discussion.

Senator Perrault: With leave, then, honourable senators, may I make a brief statement?

The Hon. the Speaker *pro tem:* I want to make it clear that I wish to be fair to all honourable senators. If Senator Perrault speaks now, I think another senator from the other side should have the right to speak. Is that agreeable?

Hon. Senators: Agreed.

Senator Perrault: Honourable senators, there is no inclination on the part of the government to restrict debate on this matter. All senators are certainly welcome to participate in any discussion about the merits of the report or any aspect of the bill.

I really rise to say that I think the committee's report is a tribute to the value of men and women of good will meeting together, considering a matter of importance to Canada together and working out proposals which will make this bill, ultimately, a better statute when it is passed into law. I want to assure honourable senators that, regardless of some of the comments spoken and written by the media following the presentation of the first report on June 22, beginning on the morning of the 23rd, I approached the government and discussed with them the views of the Senate in respect of the bill. This, of course, is my responsibility. I indicated to them my support for some of the views contained in that Senate report.

I do not believe that under any circumstances the Senate should be a supine, rubber stamp of the other chamber. In this regard, honourable senators realize that I occupy a unique position in that, while I have a responsibility to help advance government legislation, I have an important responsibility to make certain that the Senate of Canada continues vigorously in its function as the body of second thought and that every effort is made to improve legislation which comes to it from the other place.

I know of the time that members of this committee have invested in consideration of this bill, and I want you to know that I have enjoyed working with them and with my colleagues in government and with others in efforts to have fair and favourable consideration accorded to some of the views expressed in that Senate report. The result is that I think we have achieved something very constructive this evening. As Senator Walker said, not everything has been accepted which was recommended in that report; not everything, but ultimately the bill will be a better bill as a result of our efforts.

The report we have heard tonight is a tribute to the distinguished chairman of the Banking, Trade and Com-

merce Committee and his committee colleagues and to the many other speakers who interested themselves in this bill, regardless of whether they were formal members of this committee. Certainly, there have been differences of opinion from time to time, some of them vigorously expressed, but I have always felt, and I am sure honourable senators share the same attitude, that honest differences honestly expressed constitute one of the important and distinguishing features of parliamentary democracy. In the debate on Bill C-58, and during committee discussion, we have had honest "fences" but all of us support the basic institution of Parliament and the right to dissent.

I think the committee and its chairman deserve the appreciation of all of us for the application and diligence which they brought to consideration of a very important bill. I found it particularly gratifying that they found themselves able to support the principles of the bill—not all of the detail but the principles of it: the goal to encourage further development of a strong, indigenous Canadian publishing and communications industry. That is a worthwhile goal. I think the commitment that we have received from the Secretary of State, for example, that next session he will come before us and will discuss the results of the measure in its application is encouraging. We will have an opportunity to assess the effect of the statute in relation to the publishing industry and the television industry. That is a commitment which the minister has given to the Senate, and I am pleased to note that the Secretary of State's letter is appended to the committee report. All of us want this measure to be effective; we want it to work; we want it to meet the highest expectations of those who have supported it.

Senator Hayden made one of his wise statements tonight when he said that the committee members "are not vain enough to think that there is only one way to achieve something." Well, when any government of Canada ever comes to the belief that there is only one way of achieving anything good, then it is time for that government to leave.

Senator Phillips: I agree.

Senator Perrault: There are many good solutions to the problems which face the Canadian people, and in this case as a member of the government I am gratified to note that the government was not vain enough to think that there is only one way to achieve something.

When this bill was considered in the other place, I believe that it was a basic mistake not to enshrine in the bill a definition of "substantially the same". When the minister came before the Senate committee he indicated his agreement, and he has said on behalf of the government that he will do something about it.

There was, of course, an honest difference of opinion about whether the preferred method to determine the words "substantially the same"—whether the task should go to the courts first or whether the definition should be enshrined in the Income Tax Act. But one "route" was chosen of the two possibilities suggested in the Senate report.

Certainly, in this entire process we have once again put to rest the misguided notion that we have in Parliament an intransigent, immovable government on the one hand, and, on the other hand, an equally immovable and obstinate Senate committee which specializes in blocking everything. That is one of the sort of misguided notions we see served up from time to time in the media.

Senator Grosart: When did we ever block anything?

Senator Perrault: Well, I do not espouse that view myself, you know.

Senator Grosart: I asked, "When did we ever block anything?"

Senator Perrault: I am talking in terms of the activities of the Banking, Trade and Commerce Committee and the suggestion which has been made by some that somehow it is slowing progress when the committee takes time to examine legislation, the suggestion that somehow this process impedes progress.

Senator Grosart: I have never heard that said.

Senator Perrault: I hope you have been reading your newspapers recently.

Senator Grosart: I have.

Senator Perrault: But we are joined in a common cause—all of us—and Bill C-58 is another example of where common cause has been joined to produce legislation which is in the public interest. Certainly, we have confirmed once again the supremacy of Parliament by the fact that an amendment is going to go forward. I will certainly undertake to ensure that the commitment is kept. The government will introduce a bill at the next session to amend the Income Tax Act to define the meaning of the words "substantially the same."

● (2110)

Honourable senators, may I conclude by suggesting that this has been another session of accomplishment for the Senate. We may be the only body in Parliament, or among government-related departments or crown corporations, that does not have a big public relations department; but I wonder if Canadians generally are aware that so far this session we have amended bills that have come before us something like 60 times, and that approximately 35 bills have been initiated in the Senate this session, in addition to numerous reports. That is proof, again, of a body which is vital and alive and working and active—a chamber doing a great deal that is useful for Canada. Perhaps during the summer recess we should tell more Canadians about our work.

I thank the chairman and the committee for a job well done.

Hon. George I. Smith: Mr. Speaker, I now renew my request for leave to participate in this debate.

Hon. Senators: Agreed.

Senator Smith (Colchester): Honourable senators, I rather hesitate to follow the eloquent performances of Senator Hayden, Senator Walker and Senator Perrault, who have excelled themselves in expressing their points of view. I shall not reach that high standard, but it may be that I will be able to make clear one or two things which trouble me.

Let me say at once that I am delighted to be able to join as warmly as I know how in the tributes that have been paid to the Chairman of the Standing Senate Committee

on Banking, Trade and Commerce for his lucid and perfectly clear exposition of the report and the reasons which led to it, even though I do not accept it. Not merely on that account, however, do I join in this tribute, but also on account of the long hours of very hard work which he has put in on behalf of the Senate and on behalf of Canadians in his various endeavours to reach a solution which he felt he would be prepared to have his committee accept and present to this house. I do not know how many hours he spent at this sort of thing over and above what all the rest of the committee put in, but I know they were many and that they were filled with hard work.

Of course, I think it only fair to say that while someone else may have had a hand in the report which is before us, it is, in large measure, put together by his industry, his ability as a draftsman, and the expenditure of a great deal of thought and energy. Therefore, I join most willingly in the tribute paid to him, and I will say that I am sure it is highly deserved indeed.

Hon. Senators: Hear, hear.

Senator Smith (Colchester): I do not know how I manage to be so nice with everybody, but I have to agree also with the Leader of the Government about the point he made concerning the effort he put into the attempt to find a solution which he felt would satisfy his feelings about what ought to be done. I cannot testify to his efforts from personally accompanying him in his various activities in this regard, but certainly the results became pretty well known to the members of the committee, of which I have the honour to be one, and I think that there can be no doubt at all that he played a very important role in all of this difficult exercise.

Having said that, however, I feel that I simply cannot vote for this bill on third reading, and therefore it would be wrong and very strange indeed for me to avoid saying, at this stage, that I just simply cannot accept the report.

In the first instance, I think it is a bad bill, not because its objectives are bad—since with the rest of the committee I agreed with the original report the committee presented, accepting these objectives without reservation, and which I accept now—but because in my view it was about as badly handled a bill from the time it was first conceived in somebody's mind until this moment, as it was possible to observe in any legislative assembly anywhere. It is simply a bad bill for the achievement of what we all agree, I think, are good objectives.

I am not at all sure that I find myself as happy as my colleagues about the fact that we are prepared to yield because we have received certain undertakings. It seems to me it is such a bad bill, and has been so badly handled—and I am not now talking about anybody in this chamber—that really the only proper thing to do is either amend it as the original report indicated, or amend it by means of some sort of modification of the suggestions contained in that report, or defeat it.

Incidentally, before I overlook this fact, the Leader of the Opposition in the Senate is unable to be present just at this moment, and he did ask me to say, if the matter arose in his absence, that for reasons he gave in the committee he too is unable to support the adoption of the report.

[Senator Smith (Colchester).]

I do not think I should attempt to take up the time of the house or trespass upon its good nature, it having given me leave to speak, by reiterating my reasons for thinking this is a bad bill. I gave those in some detail on second reading, which is now a long time ago. There is one thing, however, that it seems to me that we must not forget. Somehow somebody, in the early stages of this bill, got the idea that because a minister or a group of ministers decided that this ought to be the law, everybody in the country should instantly accept it as being the law and conduct themselves accordingly. That is an attitude that I just do not think any responsible parliamentarian, or anyone interested in parliamentary government, can properly accept. Why should anybody believe that any suggestion, or any bill introduced by anybody or any government, is going to be the law until it is the law? And why should a penalty be imposed on anyone who takes advantage of their everyday right as a citizen of the country to wait until it is the law before they feel they have to pay it? I suppose that perhaps in that feeling is wrapped up the real, fundamental reason why I find it so hard to accept this report.

Thank you, honourable senators, for granting me leave to speak at this time. Thank you for listening to me.

THIRD READING

The Hon. the Speaker *pro tem:* When shall this bill be read the third time?

Senator Lang: Honourable senators, in view of the fact that the sponsor of the bill is not in the chamber at this time, I would suggest at the next sitting.

Hon. Senators: No, now.

Senator Austin: Honourable senators, the sponsor of the bill informed me on his way out that he would not be back until Friday morning, and that he had no objection to the bill proceeding in his absence.

The Hon. the Speaker *pro tem:* I am sorry. I did not hear Senator Lang's motion. Is the honourable senator moving third reading? I asked when shall the bill be read the third time?

Senator Lang: I said, at the next sitting.

Senator Grosart: Perhaps you should have a conference with your leader.

Senator Perrault: With leave, I move third reading now.

• (2120)

The Hon. the Speaker *pro tem:* Honourable senators, it is moved by the Honourable Senator Perrault, seconded by the Honourable Senator Langlois, with leave of the Senate, that this bill be now read the third time.

Senator Grosart: Leave is granted.

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

Senator Grosart: Mr. Speaker, the motion for third reading has just been put. We have not had an opportunity to discuss the bill on third reading. In other words, third reading has been moved, but not yet passed.

The Hon. the Speaker *pro tem:* If Senator Grosart wishes to speak, he is free to do so.

Senator Grosart: Honourable senators, other members of the house may also wish to speak on the third reading of

this bill. While there has been discussion of the report of the committee and the circumstances in which that was made, there is certainly no reason why the bill should not now be discussed on third reading.

The comments that I wish to make are, first, that I am opposed to the passage of the bill without amendment. Had there been a vote on the amendments that were reported to the Senate by the committee, I would certainly have voted in favour of those amendments, and I am quite sure that many other honourable senators on both sides of the house would have done likewise.

There have been undertakings given, but I can only say that this is, in my view, the second best way for the Senate to handle a problem of this kind. There seems to be an unholy fear on the government side that amendments by the Senate will mean the end of the world. I simply do not understand why the government would not accept amendments to the bill such as those that were before the Senate or, at least, permit the Senate to amend the bill, and have it go to the House of Commons which could then make whatever disposition it liked of the amendments and send the bill back. My own feeling is that there would not be any danger of a serious confrontation. The reason I suggest it is important that the Senate insist on amendments when they come before it, particularly amendments bearing the authority that these did—and there can be no greater authority than that—is that the interests of the Senate would be served by these amendments being made to the bill, and sending it back to the House of Commons so that the House of Commons itself and the public would be aware that the Senate has, on second thought, proposed amendments to the bill.

Honourable senators, as I have said, what we have done now in these circumstances is to come up with the second best way of indicating the disposition that the Senate, and certainly the committee of the Senate that discussed the bill, would like to see made of the bill. Five amendments were suggested, and there was a disposition, I think, at that time on the part of the Senate to accept them. I think that without certain pressures—understandable pressures—having been brought to bear, the Senate might well have voted to accept those amendments, and I wish it had.

For various reasons this was not regarded as the solution that could be arrived at to satisfy all those concerned, and it was then decided—and Senator Hayden made this very clear in presenting the original report—that the alternative was to seek certain undertakings from the government. He complained at that time that he had sought undertakings, that he had not been able to obtain them, and it was clear to me, at any rate, and to most honourable senators, that Senator Hayden decided to fight for those undertakings, and if he did not get them, then he would still insist—and I think the committee would have gone along with him—on introducing the five amendments in the report.

In all the circumstances, honourable senators, I agree with all the compliments that were paid to those who brought about what I think we can call an amicable solution of a very difficult situation—Senator Hayden, the Leader of the Government, the Whips and so on. There was also some cooperation, and very substantial cooperation, from at least two ministers as a result of which a solution was arrived at which at least saves the face of the Senate, because I can think of no worse situation for the Senate, to find itself in than to have a committee such as the Standing Senate Committee on Banking, Trade and Commerce discuss a bill over the length of time it took to discuss this one, hear the multitude of witnesses it heard, and bring in amendments, and then being persuaded to reconsider and to report the bill without amendment without getting some undertakings such as those that have been given.

I have on earlier occasions referred to one device that has been very useful in the Senate, and that is the referring of the subject matter of bills to committees. I think it was I who named that the "Hayden Formula." I now call it the "Hayden Formula No. 1," and the second device, because that is what it is, the "Hayden Formula No. 2."—that is, to fight for your amendments, and if you cannot get them, then to fight equally hard for undertakings by the government. I think all concerned are to be congratulated on the fact that these undertakings were given, or that at least three amendments—perhaps the three major amendments—that Senator Hayden has discussed are there. I shall not go into them in detail, but I think it is a measure of the satisfaction that we can feel in the Senate for the second best solution that the minister should use the word "concession," because one minister at least said, "We are making a concession," and this takes us somewhat beyond a mere undertaking. It was a concession to the committee, and I think the same might well be said of the statements made by another minister, Madame Sauvé.

Those who have been active in bringing about the solution have avoided what could have been two very embarrassing alternatives. One would have been the outright rejection by the government through its majority in the Senate of the amendments made by one of the Senate's committees. My own feeling at the time when that seemed possible was that there could be nothing more damaging to the Senate itself than for the Senate to reject those amendments outright. Fortunately, a formula was devised by which the report was sent back to the committee and these negotiations began, and, to the extent that it is good second best, it was satisfactory.

● (2130)

The other possibility, of course, would have been—and I doubt if this would have been as terrifying to me, at least—a decision by the Senate to amend the bill regardless of the position of the government. I can understand Senator Perrault's difficulty in that situation. He said then, and he has said again tonight, that it is not his exclusive duty to make sure that government bills go through the Senate without amendment. We accept his assurance in that regard. We all realize that he is in an extremely difficult position because he is a member of the cabinet. He has agreed with his colleagues in the cabinet that this is the bill as it should go to Parliament, and as it should go through Parliament, and even on the principle of cabinet solidarity he has some problems there which we recognize.

On the other hand, I think the evidence is clear that in this particular situation Senator Perrault leaned over backwards to bring about this compromise, and I am quite sure that he had some difficulty with some of his colleagues who are inclined to be more intransigent in such

matters. I accept the fact that he works for the Senate, perhaps not as assiduously as he might work for the government but he has given us evidence in this particular case that his heart can be at times in the right place.

With those remarks, I regret that the Leader of the Opposition is not here this evening, but I know his wishes in the matter and will indicate them when the vote is called.

Hon. Senators: Hear, hear.

Senator Lang: Honourable senators, I have no intention whatsoever of attempting to delay a vote on this bill. However, I am concerned that the sponsor of this bill, which arises out of recommendations of his Special Senate Committee on Mass Media, has left this chamber, with about 30 of us sitting here debating the issue, because he must catch a plane. I do not know whether the honourable senator has lost interest in the matter—I doubt it—or is trying to get out of the kitchen because the heat is too great. However, I think it is a disgraceful thing for a senator who has responsibility for a bill to walk out in the middle of its debate, and leave the remainder of us to deal with the matter.

Some Hon. Senators: Hear, hear.

Senator Lang: Therefore, honourable senators, I move the adjournment of the debate. If you wish, you may vote on this motion.

Senator Grosart: There is no debate on a motion to adjourn.

The Hon. the Speaker *pro tem:* Is there a seconder of the motion?

Senator Langlois: No.

The Hon. the Speaker *pro tem:* It is moved by the Honourable Senator Lang, seconded by the Honourable Senator Smith (Colchester), that this debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker *pro tem:* Those in favour please say yea.

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tem:* Those against please say nay.

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tem:* In my opinion the "nays" have it.

Senator Grosart: You did not have enough, Senator Lang.

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

Senator Grosart: On division.

Senator Asselin: On division.

Motion agreed to and bill read third time and passed, on division.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Senator Langlois: Honourable senators, I move, seconded by Senator Perrault, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until tomorrow, Thursday, July 15, 1976, at 10 o'clock in the forenoon.

Motion agreed to.

The Senate adjourned until tomorrow at 10 a.m.

APPENDIX

(*See p. 2390*)

INCOME TAX ACT

REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

Wednesday, July 14, 1976

The Standing Senate Committee on Banking, Trade and Commerce to which was referred back for further consideration its Report on Bill C-58, "An Act to amend the Income Tax Act", has, in obedience to the order of reference of July 7, 1976, re-examined the said report and now reports as follows:

Your Committee considers it urgent that the following observations be made as the basis for its report. This reference back to the Committee for further consideration and report was made after some debate during which various and opposing views were expressed in the Senate, from which it appeared such reference back should be made in order that the Committee might reconsider the amendments contained in the said report, it appearing that such amendments in the form contained in the report were not acceptable to the Government and it also appearing that the practice of dealing with the differences as between the report and the position of the Government by undertakings which might well represent concessions by both parties should be tested. The motion to refer back the report of the Committee for further consideration and report was approved.

Following the approval of the reference back of the report of the Committee, meetings have been held by the Committee with the Ministers who will be concerned in the administration of C-58, with the following results:

The first Minister to appear before the Committee was the Minister of Communications, the Honourable Jeanne Sauvé. It should be noted in this connection that on January 23, 1975, the Secretary of State of Canada made a statement to the House of Commons in part in respect of the broadcasting provisions of C-58, in which he referred to the amendments of section 19 of the Income Tax Act in their application to broadcasting, as follows:

> "... no deduction against income be permitted for advertising time on a non-Canadian broadcasting station for an advertisement directed primarily to a market in Canada. Such an amendment would not, of course, come into effect until sufficient advertising time is available on Canadian stations to satisfy Canadian needs adequately."

One of the amendments contained in the said report dealt with procedure for such determination by Parliament, but such provision appears restrictive in its application if Parliament is not in session. The Minister on this point stated as follows:

1. THE CHAIRMAN: In lieu of that (going back to the House), it is up to you, as the Minister, to make the determination that the conditions existing in the advertising industry, as Mr. Faulkner mentioned on January 23, 1975, are such that it can be said that the needs of the advertising public are adequately satisfied.

   HON. MRS. SAUVÉ: Yes.

   THE CHAIRMAN: I take it this is a decision you will make.

   HON. MRS. SAUVÉ: Yes.

2. THE CHAIRMAN: ... What we are suggesting, in the event that you do it yourself, is that there be opportunity for the stations affected to appear and present their case, with time limits on their appearance, so that they will not run into September 1.

   HON. MRS. SAUVÉ: I think I could meet that requirement. I am sure that I could receive representations from interested parties, who would flag me if there were any problems with regard to the date of proclamation that I intend to set. I think it would be difficult for me to take on a commitment to ask the CRTC, for instance, to do that for me, which would involve, I suppose, having public hearings on the matter. I think that would be quite a lengthy process ...

3. HON. MRS. SAUVÉ: ... I think, however, that senators would perhaps be satisfied, if I accepted briefs or representations from interested parties in order to ensure that broadcasting time would be available in Toronto and in Vancouver. I do not think Vancouver will be a problem. Toronto might, in the estimation of some, pose a problem, but I would certainly be willing to receive representations on that.

   THE CHAIRMAN: Of course, the proclamation would bring the broadcast sections into force, applying to all the border stations in Canada, so that Toronto becomes, in that regard, just as important as Vancouver, even though Vancouver has a new station coming in.

   HON. MRS. SAUVÉ: Yes.

   THE CHAIRMAN: So when you make the law applicable to broadcasting you must cover it and rule in connection with all the areas.

   HON. MRS. SAUVÉ: Yes.

   THE CHAIRMAN: I do not see any objection that could possibly be made to your making that inquiry yourself.

   HON. MRS. SAUVÉ: I could do that.

   THE CHAIRMAN: And it could be informal. The main thing is that the condition which Mr. Faulkner set out in his speech of January 23, 1975, was that it would not be proclaimed until the needs of the advertising public were adequately served, and that means in any of the communities that are affected.

   HON. MRS. SAUVÉ: I certainly stand by the commitment that Mr. Faulkner made about the bill. I think we will ensure that there is broadcasting time available for those advertisers who need it.

4. SENATOR LANG: ... I was not clear, Madame Minister, whether in your remarks concerning the proclamation date of the broadcasting provisions you were prepared to hold public hearings into the matter.

   HON. MRS. SAUVÉ: No; I said that would be too difficult. I said I would be prepared to receive representations and briefs from the interested parties before I

decided on a proclamation date, and that would be in order to ensure the conditions set by Mr. Faulkner whereby there would be some available advertising time on the Canadian broadcasting outlets.

5. SENATOR LANG: . . . It is not because of Vancouver that this question arises, but because of the situation in the Toronto area. The committee also felt that tying the proclamation date solely to the start-up date of the Vancouver station overlooked the Toronto problem which would, of course, be affected by the bill.

6. HON. MRS. SAUVÉ: I would not disregard it. If it were demonstrated by the different representations that it got that there was no available time on the Canadian stations, then I would have to think about what would be the proper proclamation date. I would certainly not disregard the representations when I received them. You see, there is a difference of opinion as to whether there is some time available . . . So far as Vancouver is concerned, you were right. We would deal with that and the question there would be answered when the new station came on stream. We felt that that was sufficient to provide the advertisers with the space they needed. In the Toronto area you have no new station coming on stream, but I think that one of my officials gave you a breakdown of the time that was available, but he felt that the broadcasters would have the service that they need. Here again I cannot accept a public hearing, and I explained a while ago why I thought that was very difficult to do, but I would certainly accept representations. If the representations indicated to me that there is not enough available time on the Canadian stations, I would certainly take that into account in deciding the proclamation date; and, as I said, I would not disregard the representations.

SENATOR LANG: When you use the term "time available", do you take those words as not just meaning minutes or hours but also audience availability?

HON. MRS. SAUVÉ: Prime time, you mean, the best hours to advertise; I would think that would have to be part of the consideration.

SENATOR LANG: But you might have prime time on a station with a low audience rating.

HON. MRS. SAUVÉ: Yes. But if an advertiser wants to go on that station and if that is his usual means of advertising, then that would suit him and he would not be making representations to me that there was not enough time. I think we would have to look into all of these situations in order to ascertain that there is enough time.

SENATOR LANG: I should point out that I am no expert in these areas.

HON. MRS. SAUVÉ: Neither am I, but I can give you the commitment that it will be looked into very carefully. I understand that if someone is used to advertising on a station with a heavy audience rating, he does not want to be rerouted to some small town station where he gets no coverage.

7. The Minister of Communications in her statements to the Committee quoted above has dealt with the problems of implementing the statement of the Secretary of State of Canada made in the House of Commons on January 23, 1975, in which the conditions required to be met before any determination of the date to be fixed by proclamation is settled for the coming into force of the broadcast section of C-58. Her agreement and statement on this point are:

a) that she will implement the conditions laid down by the Secretary of State of Canada for the necessary determination that "sufficient advertising time is available on Canadian stations to satisfy Canadian needs adequately", and

b) to that end she will receive representations and briefs from the interested parties before any such determination is made by her.

This statement of the Minister deals with the problem that the Committee wished to have resolved before any proclamation was made, providing for the coming into force of the Broadcasting Sections of C-58.

Accordingly, the Committee is prepared to accept this statement of the Minister, and therefore does not now insist on the amendment proposed in the report on that point.

INTERNATIONAL RELATIONS

8. As to the suggestion by the Minister of Communications on the matter of international relations that a committee or a body of people be set up with responsibility for negotiating with representatives from the United States, she had referred only to the subject of commercial deletion. It was suggested that such committee should cover the whole range of broadcasting. This, she stated, would be difficult as a committee is already set up to discuss the matter of commercial deletion and this is quite different from the matters we are dealing with in C-58. However, she showed that she was well aware of the general problem and that it was more embracing than commercial deletion.

Her statements on this point are as follows:

THE CHAIRMAN: . . . the statement you have made; that is, that in the interests of resolving a possible conflict in the field of broadcasting, you would assist in establishing a committee or a body of people who would have the responsibility for negotiating with representatives from the United States. The only thing that bothered me about that was that your paragraph limits this to commercial deletion. I think, and this is the view of the members of the committee, that it should cover the whole range of broadcasting.

HON. MRS. SAUVÉ: I think that would be difficult. . . . I don't think that the two questions should be lumped together. I don't think they belong together, and I am afraid that despite the fact that the senators are preoccupied by international relations, as I am too, I think the best thing to do, if you want those international relations to be preserved in these particular talks, is to make these two questions separate. Commercial deletion should be discussed with the representatives of the regulatory body in the United States and ours, and people from the External Affairs Department, the State Department and the relevant technical people. I think it is much more conducive to better relations between our two countries to have these two questions separate. It seems to me that it would be very difficult otherwise, because Bill C-58 is not at the present time being discussed in that forum or in that committee, and Mr. Vine himself, when he was appearing before the Senate Committee giving the report on Canadian

matters, did say that on the occasion of these meetings between the FCC and CRTC and other people there was a reference made to Bill C-58, but it was pointed out by the Canadians that this was an internal matter having to do with the Department of National Revenue and fiscal policy and therefore that it should not be discussed at the same time as commercial deletion. He indicated to the Senate Committee that he agreed with this position, and that he had noted it and agreed that these two questions should not be discussed together. I think it would be much more conducive to clearing these matters that we have between us if they could be discussed in separate forums.

This subject of relations with the United States and the effect on international relations of the provisions of C-58 was of great concern to many senators who spoke on C-58 on second reading and in Committee and on debate on the Committee report. Much evidence was heard by the Committee on this subject and the state of discussions and negotiations by Canada with the United States. In its report the Committee recognized the extreme importance of this issue and referred to the strain on Canada-U.S. relations which it regarded as so important to Canada. This importance was emphasized by the evidence of Mr. Boyle of the CRTC, who stated that most serious and complicated problems in this field were in the immediate offing. Accordingly, the Committee is very appreciative of the Minister's understanding of the situation and her concern and interest in devoting time and effort to discussions and negotiations in this area and the setting up of a Committee to this end.

RE: "SUBSTANTIALLY THE SAME"

The Committee in its efforts to achieve some common ground whereby the differences between the Committee report and the views and policy of the Government also heard the Honourable Mr. Cullen, the Minister of National Revenue. The report of the Committee was opposed to the exercise of ministerial discretion in the interpretation of the words "substantially the same" as they occur in section 19, subsection (5), of the Income Tax Act, on the basis that fixing a percentage of content difference between a periodical published in Canada as against one published outside Canada was a legislative act and not to be determined by ministerial discretion.

The Committee in its report decided that a provision by way of amendment to C-58 should be recommended whereby the interpretation of the words "substantially the same" must be referred to the Federal Court for interpretation even before assessment, after which time the taxpayer had a statutory right of appeal.

The Minister, when recently before the Committee, stated:

HON. MR. CULLEN: I would prefer it in legislation; I am prepared to introduce legislation under a notice of Ways and Means Motion to define "not substantially the same".

THE CHAIRMAN: Without reference to the 80 per cent?

HON. MR. CULLEN: In the concession I am making now, most assuredly I would define "not substantially the same" in the way Government policy has in effect defined it, the way my Department has interpreted it, the backing I had of my colleagues. What we mean by "not substantially the same" is 80 per cent different; otherwise we might as well tear up the bill.

HON. MR. CULLEN: I mentioned putting it into legislation primarily because I think from sober second thought suggestions here that if we put it into regulations it is very easy for a Cabinet, by Order in Council, to change the 80 to 90, or change it to 100.

HON. MR. CULLEN: I am giving that undertaking to introduce a bill to define substantially the same.

SENATOR AUSTIN: In the next session?

HON. MR. CULLEN: Yes.

With this undertaking by the Minister to introduce legislation at the next session of Parliament to define "substantially the same" including therein the 80 per cent content difference, Parliament, both the Commons and the Senate, will have the opportunity to challenge the definition and the 80 per cent content difference requirement included therein. On the other hand, the Committee provided for an appeal to the Courts as of right under C-58 on this point of interpretation by the Minister for a publisher who is defined as a person who has or proposes to have the exclusive right to produce and publish issues of a newspaper or periodical for such purposes.

The undertaking to define by statute removes the exercise of ministerial discretion and affords Parliament the opportunity to challenge the 80 per cent content difference even as the Committee amendment was intended to do. Under the Committee amendment, the Court would be able only to deal with a particular case as to the meaning of "substantially the same." A statutory definition would be of general application but unless concurred in by the Senate would have no force or effect.

The purposes of both amendments would appear to have the same objective, that is to get away from the exercise of ministerial discretion, which is a most desirable purpose.

The Committee is prepared to recommend the acceptance of the undertaking of the Minister of National Revenue to introduce a bill in the Commons at the next session of Parliament to define the meaning of "not substantially the same". The Committee will not insist on its amendment contained in its first report but is not to be taken by such action to have approved of the provisions of the proposed amendment where it refers to the 80 per cent content difference.

These three undertakings hereinbefore described represent the major points of the Committee's original report. The purpose of several of these amendments was to restore the rule of law and the supremacy of Parliament. These undertakings, when implemented, will also accomplish this same purpose. The members of the Committee are not vain and wedded to their way as the only way of achieving this desired result and the Committee is prepared to accept such undertakings in lieu of its amendments.

The Committee in its report did not erode the essential purposes of C-58. Indeed, the Committee supported and approved its stated objectives. The Committee is now prepared not to insist on its amendments on the several points covered by the undertakings outlined above but is not to be taken to approve the 80 per cent content difference, and is happy that this result was able to be achieved. The two Ministers, the Honourable Jeanne Sauvé and the Honourable Bud Cullen, in this regard were understanding and

co-operated in the effort to resolve the differences in viewpoint as between the report of the Committee and the Government and this was much appreciated by the Committee.

The report of the Committee contained two further amendments. One such amendment dealt with the position of the magazine *MD of Canada* and similar publications and struck out the repeal of the exemption provided for magazines, the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion, under section 19(4) of the Income Tax Act and reinstated the exemption provided for such magazine.

The second amendment provided for a change in the date for the coming into force of the provisions of C-58 in relation to magazines, periodicals and newspapers by striking out the date January 1, 1976, and substituting therefor the date January 1, 1977, and also changing the date December 31, 1975, as the date of an issue of a non-Canadian newspaper or periodical, to December 31, 1976, after which advertising costs in such publications would be non-deductible for tax purposes. The purpose of such changes in C-58 was to remove all exemptions provided under the original section 19(4) of the Income Tax Act.

The witnesses who appeared before our Committee and, in particular, the Honourable Mr. Cullen, who appeared on Wednesday afternoon, July 7, stated that C-58 was not intended to have any retroactive effect. The retroactivity occurred by reason of the prolonged debate as the bill moved through Parliament, even at this date such bill has not passed into law. However, under the above mentioned amendment proposed in C-58, once the bill became law its provisions would apply to Canadian advertisers in issues of non-Canadian newspapers or periodicals and such advertising costs would be non-deductible for tax purposes as and from January 1, 1976. There was no design that such should be the effect of C-58, but the advertisers who continue to advertise in newspapers and periodicals enjoying an exemption under the then law would find themselves, after C-58 became the law, subject to C-58 and their advertising costs since January 1, 1976, would be non-deductible. For those who can show that hardship has been suffered by reason of this unintended retroactive effect of C-58, the provisions of section 17 of the Financial Administration Act are available for the purpose of applying for remission of such taxes as may be attracted in the period from January 1, 1976, until C-58 becomes law. This right to apply for remission does not require any undertaking in order to be asserted but hardship must be demonstrated to the extent necessary to satisfy the Minister of National Revenue in order that he may recommend such remission to the Treasury Board.

In attempting to determine what advertisers have been adversely affected by this retroactive feature produced by the lengthy duration of the consideration by Parliament of C-58, it would appear to be essential that such advertisers as are seeking remission would have to incur a loss by reason of the retroactive non-deductibility of advertising costs before the calculation of taxes. It becomes important, then, to know the extent of the inducements offered to such advertisers in the way of lower advertising rates to compensate for the possible non-deductibility of such advertising costs in arriving at net income.

It would appear that a very limited number of advertisers would fit into this position by reason of the concessions made to them by the owners of non-Canadian newspapers and periodicals in 1976. Accordingly, for purposes of this report, it becomes necessary to arrive at some conclusion as to the extent of the problem and its importance. The report of the Committee and the amendments proposed in such reports to the Senate was intended to relieve against this situation, except that in the case of exemptions provided under section 19(4) the amendment proposed by the Committee restored the exemption thereby provided without time limitations.

Your Committee has had to weigh such considerations against the substantial advantages provided by the undertakings hereinbefore referred to by the Minister of Communications and the Minister of National Revenue. The view of the Committee is that such benefits as afforded are substantial and are in the public interest, and assist in affirming the rule of law and the supremacy of Parliament in the administration of C-58. The advantages in these circumstances of the undertakings which have been made by the respective Ministers on behalf of the Government would appear to outweigh in great measure the additional financial burden, if any, imposed on advertisers in non-Canadian newspapers and periodicals as from January 1, 1976.

So far as termination of the special exemptions are concerned heretofore enjoyed by non-Canadian newspapers and periodicals, it is a matter of Government policy to remove such special exemptions and the Committee has concluded that its insistence on the retention of the exemption under section 19(4) might adversely affect the undertakings referred to above, which are so important in the public interest and in the administration of C-58. Such insistence by the Committee in this report may well lead to the non-acceptance of the report and the implementation of C-58 without amendment and therefor without the substantial benefit afforded by the undertakings put forward by the Minister of Communications and the Minister of National Revenue. In these circumstances, the Committee is prepared to withdraw these two proposed amendments contained in its original report.

It should be noted that the Secretary of State of Canada, to whom the suggested compromises on these two points were made when he appeared before the Committee on July 8 and in respect of which he stated that he must confer on these points with his colleague, the Minister of National Revenue, did not return to the Committee to indicate what, if any, decision had been arrived at. It is possible that he may have discussed the matter with the Government Leader in the Senate. However, the Secretary of State of Canada has written a letter to the Chairman of the Committee, a copy of which is appended hereto, in which he offers certain concessions, as follows:

> In this regard, because of the great interest of you and your Committee in the objective of the Bill, I would be pleased to meet with the Committee next session to provide a status report on the effect of the legislation on meeting our objectives in the periodicals and broadcasting industries.
>
> Certainly, arising out of application of the Act, should evidence be placed before me that would warrant consideration of remission of taxes under the Financial

Administration Act on behalf of advertiser/taxpayers in these publications, that information will be transmitted to my colleague, the Minister of National Revenue. I am sure, however, you understand that within the terms of my Ministerial responsibility, I could not go beyond this commitment.

This letter has been read to the Committee and while it may indicate a sympathetic approach and appreciation of the work of the Committee, it does not propose anything that would relieve the condition of those advertisers or publishers who are adversely affected by C-58; more particularly on the two points developed earlier, namely retroactivity and the magazine *MD of Canada.*

The Committee is still of the opinion that the unplanned retroactive effect of the provisions of C-58, so far as they deal with non-deductibility of advertising costs by advertisers in non-Canadian newspapers and periodicals, should be relieved on the basis of unexpected hardship. There can be no assurance that this will occur under section 17 of the Financial Administration Act. The Committee is still of the view that non-Canadian newspapers and periodicals in the category covered by the exemption provided under section 19(4) should be afforded some period for efforts at compliance or for winding up their affairs and ceasing to carry on in Canada. However, while your Committee is genuinely concerned about this situation and the apparent refusal of the Secretary of State to make any concession by way of compromise on these costs, the Committee is not prepared to insist on its proposed amendments on these two points contained in its original report as the benefits of the undertakings put forward by the several Ministers substantially outweigh the results that may well occur in the withdrawal of these undertakings if amendments to the bill are persisted in.

For the reasons above stated, satisfied as the Committee is that the principles which influenced its consideration of Bill C-58 and were reflected in the original report of the Committee are met by Government undertakings, and with genuine concern for those who will still be adversely affected by C-58, the Committee now reports the bill without amendment.

Respectfully submitted,

Salter A. Hayden,
Chairman.

APPENDIX TO REPORT

The Secretary of State of Canada

July 13, 1976

Personal
The Honourable S. A. Hayden
The Senate
Ottawa, Ontario
Dear Senator Hayden:

First of all, I want to thank you, as chairman, and the other members of the Senate Banking, Trade and Commerce Committee, for your diligent examination of Bill C-58.

I want to assure you that I have studied carefully the contents and recommendations contained in the report. It is gratifying to note that the Committee supports the objectives of the Bill. I share with you a hope that the legislation will achieve its objectives and the result will be further development and growth of healthy, indigenous Canadian broadcasting and publishing industries.

In this regard, because of the great interest of you and your Committee in the objectives of the bill, I would be pleased to meet with the Committee next session to provide a status report on the effect of the legislation on meeting our objectives in the periodicals and broadcasting industries.

As well, I would welcome from you and the Committee, and from other members of the Senate, suggestions which from time to time you may wish to make with respect to Canada's cultural industries for which I have some responsibility.

With respect to the proposed legislation, I know we share a desire to make it the means by which the goals we hold in common may be achieved.

It has been my determination from the outset to produce a measure which will be fair and even-handed in its application. In this regard, I am well aware that the status of certain periodicals under the present section 19, subsection 4 of the Income Tax Act has been of concern to certain members of the Committee.

Certainly, arising out of application of the Act, should evidence be placed before me that would warrant consideration of remission of taxes under the Financial Administration Act on behalf of advertiser/taxpayers in these publications, that information will be transmitted to my colleague, the Minister of National Revenue. I am sure, however you understand that within the terms of my Ministerial responsibility, I could not go beyond this commitment.

The recourse is open to any taxpayer to place before the Minister of National Revenue evidence that would warrant consideration of a remission of taxes under the Financial Administration Act. As you know, under Section 17 of the Act, aggrieved taxpayers may seek such remission from the Minister of National Revenue. Although the interpretation of the Act by the Treasury Board has been quite narrow, the recourse still remains available.

I have enjoyed meeting with your Committee and, despite certain differences of opinion which have occurred from time to time—a feature of Parliamentary democracy—I want you to know how useful the Committee's work has been to me and my colleagues.

Yours very truly,
J. Hugh Faulkner

THE SENATE

Thursday, July 15, 1976

The Senate met at 10 a.m., the Speaker in the Chair.

Prayers.

CRIMINAL LAW AMENDMENT BILL (NO. 2), 1976

QUESTION OF PRIVILEGE

Senator Molson: Honourable senators, I rise on a point of privilege. I heard on the news last night that the bill we are to consider today, which abolishes the death penalty, had been passed by Parliament, that Parliament had gone home and left the buildings to the tourists and that the matter is now closed. Now, that was only a news broadcast, and I do not take it seriously because we run into that sort of thing frequently.

I then saw a member of the government, the Solicitor General, being interviewed on television. It was stated that all pending death sentences had been commuted. I realize that that is by executive action, which action is the duty and privilege of those responsible, but to me it smacks of arrogance. In a way it is practically a gratuitous insult to us in this chamber.

We are meeting for a day and a half or two days to debate this bill and before we have gone beyond the mere formal introduction of the bill we find that the action that would normally be taken as a result of the passage of the bill has already been taken. This action is being taken by the government in the face of the second branch of Parliament; the third, the Crown, is the final authority, of course, to be heard from, but before we, the second house, have had a chance to do anything, to say a word in this present debate. If that is not a slap in the face, I am not sure what it is. We are meeting here today under very odd circumstances, to spend all this time debating an issue which has been emotionally and rather well debated over the years, only to find that the government has already taken the action it wanted to take anyway.

Senator Perrault: Honourable senators, by way of response may I say that I too listened to news reports along the lines described by Senator Molson, and I listened with some concern. I want to assure honourable senators that today, hopefully, I will be able to bring the concern of this chamber to my colleague. Certainly, I agree that on the basis of the news reports it appeared to be a totally improper statement to make.

Senator Argue: Honourable senators, I am not here to defend the government, but I ask the question: Is it not correct that three of the convicted murderers were slated to be hanged yesterday and if the government had waited for the Senate it would have been too late? That is my impression.

Senator Perrault: My understanding is that the hangings were scheduled for some time today or tomorrow. Nevertheless, a fuller explanation is required for that alleged ministerial statement. I shall endeavour to obtain further information and perhaps report to the chamber later this day.

Senator Grosart: The Leader of the Government might also care to bring to the attention of those responsible the fact that the insult carries through to His Excellency the Governor General and his deputy.

[*Later:*]

Senator Perrault: Honourable senators, with leave, I should like to report on my conversation with the Solicitor General, which has taken place this morning, if it is the wish of the Senate.

Hon. Senators: Agreed.

Senator Perrault: I met with the Honourable Solicitor General immediately after leaving the chamber this morning when this matter was raised by Senator Molson. I am advised by the Solicitor General that the news reports purporting to quote him arise from some informal remarks in response to queries from the media following passage of the bill in the other place. He has informed me that in no way did he intend to suggest or to infer that commutations would take place prior to passage of the legislation. As far as the hangings scheduled for this week are concerned, it would be the government's intention to enter stays of execution pending determination of the issue by both Houses of Parliament.

● (1010)

DOCUMENTS TABLED

Senator Perrault tabled:

Report on the administration of the Canada Student Loans Act for the loan year ended June 30, 1975, pursuant to section 18 of the said Act, Chapter S-17, R.S.C., 1970.

Report of Canadian Patents and Development Limited for the fiscal year ended March 31, 1976, including its accounts and financial statements certified by the Auditor General, pursuant to sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

ADJOURNMENT

Senator Langlois moved, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until tomorrow, Friday, July 16, at 10 o'clock in the forenoon.

Motion agreed to.

CRIMINAL LAW AMENDMENT BILL (NO. 2), 1976

MOTION RE DISPOSITION OF THIRD READING AND PASSAGE OF BILL

Senator Perrault: Honourable senators, seconded by the Honourable Senator Flynn, P.C., I move:

> THAT if the debate on all stages of the Bill C-84, intituled: "An Act to amend the Criminal Code in relation to the punishment for murder and certain other serious offences," is then concluded, any division or divisions required to finally dispose of the third reading and passage of the said bill shall be taken tomorrow, Friday, July 16, 1976, at approximately 11 o'clock in the forenoon.

Motion agreed to.

SECOND READING—DEBATE RESUMED

The Senate resumed from yesterday the debate on the motion of Senator Lang for the second reading of Bill C-84, to amend the Criminal Code in relation to the punishment for murder and certain other serious offences.

[*Translation*]

Hon. Martial Asselin: Honourable senators, I too want to echo the remarks made this morning by Senator Molson concerning the statement made last night by the Solicitor General on CBC television. It is not the first time members of the other place have failed to understand the role the Senate plays in our parliamentary system. I am happy that later today the Leader of the Government in the Senate will make appropriate recommendations to his colleagues, reminding them that the Senate still exists and that it must be respected; when a bill has been passed by the House of Commons, it cannot become law unless it is also passed by the Senate; the bill is rejected if the Senate refuses to accept it.

Yesterday we started studying an extremely important bill intended to abolish completely the death penalty. I listened with great interest to the presentation the sponsor of the bill made last night. First of all, I would like to ascertain whether the vote to be taken after study of the bill has been completed will be a free vote. Those of us who followed the debate in the other place wonder about certain aspects of the motion for a free vote in the House of Commons, much more so because it was noted that all cabinet ministers without a single exception voted for abolition of capital punishment.

This morning I read in the newspaper that the leader of the Social Credit Party, Mr. Caouette, chided one of the ministers for having brought pressure to bear on some members in an attempt to have them support the bill of the Solicitor General, Bill C-84. I trust that here, in the Senate, the government leader and the whip will not resort to that tactic in an attempt to influence the vote to be taken on second or third reading. This is a free vote, which every senator must cast according to the dictates of his conscience.

Through Bill C-84, we are being asked to abolish capital punishment definitively. That is nothing new. We have discussed this bill, or similar bills ever since 1959. A similar bill was introduced for the first time in the House of Commons by the Honourable Frank McGee, who had put forward a private bill for the abolition of capital punishment in certain circumstances. Since that time, I believe Parliament, in both the House of Commons and the Senate, has had to deal four or five times with the very same question. It is obvious that any argument we may present for or against abolition of the death penalty will not be new. But when we hear reporters, in particular a TV commentator, state that the death penalty has been abolished by the House of Commons by a seven vote margin and assume that the Senate will subsequently dispose of the bill within two days, we are bound to conclude that that commentator has little understanding of the role of the Senate in our parliamentary system. The situation is not the same in the House as in the Senate. Besides, assuming that we get it over with in two days, the arguments that we shall advance will be, I repeat, the same ones as in the past, the very ones which were discussed on four or five previous occasions.

So, we may say that capital punishment has been in fact abolished since 1962, as no execution has taken place since that time. There has been no execution because the cabinet, using its royal prerogative, has simply commuted all death sentences, even though Parliament had by majority vote decided that capital punishment was to be maintained for the murder of prison guards, policemen and peace officers. Murderers of prison guards and peace officers have seen their sentences commuted over the last few years. Of course, the government had the right to use its royal prerogative, its clemency, but it seems to me that in so doing the goverment had already decided to practically abolish the death penalty.

I think we ought to ask ourselves the following question which I am putting to honourable senators, namely: What is our first responsibility as lawmakers? It is, in my view, to enact legislation to protect society at large. If legislation does not protect society adequately, it should be amended. So, I am saying that our first duty, our first responsibility as legislators, is to pass legislation which will ensure the security of Canadian citizens. We must also pass legislation to protect the people in authority, namely, law enforcement officers, who have to implement the legislation.

Now, honourable senators, at the present time 78 per cent of the Canadian people—these are the latest public polls—made representations to members, even to senators, for the retention of capital punishment. Seventy-eight per cent of Canadians favour retention of capital punishment for some crimes, and this to protect, as I said earlier, law enforcement officers, prison guards and policemen on duty.

● (1020)

If we reject the view of the majority of Canadians who, I repeat, are in favour of maintaining capital punishment for certain crimes, what is going to happen? We know that the association of policemen of Canada came out in support of capital punishment for certain crimes I have just described. We know that Canadians—again I repeat—stand for retention of capital punishment. What is going to happen now? I think that the danger we will have to avoid is that justice be carried out in the street, in the sense that policemen and prison guards will not be able to afford to take chances in the future when they have to arrest dangerous people, well-known murderers. With justice being

done in the street, patently obvious errors will be committed by policemen, as happened recently when a young man entered a grocery store to commit a minor robbery involving only a few dollars. He was ordered to stop. He started to run away, so the policemen simply fired at him and killed him. This young man had committed a minor robbery. Policemen do not want to take any more chances in the future and they will not. That is why I suggest that justice will be done in the street if capital punishment is not retained for first degree murder, and especially for murder of policemen or prison guards. That is what must be prevented. If in the future, as I said, peace officers cannot take any more chances, they will fire on sight and by so doing they will execute people who would otherwise have been convicted for minor offences only.

I am in favour of the retention of capital punishment. I was an abolitionist in 1952. Again in 1959 I was an abolitionist for other reasons, but since then I have come to think that society in general, and people who are seeking to run society by violence, have not understood how necessary it is to live in a well-organized society and do not realize that established laws must be enforced.

This necessity is a matter of course when we live in Quebec, and especially in Montreal where there are two or three murders a week. Last April in Quebec City two youngsters aged 18 were riding in a car around midnight when someone from the underworld, looking at them passing by and mistaking them for others, simply shot them point blank after they had stopped for a red light. When we look at organized crime in Montreal and elsewhere in Canada, I think we must give people an opportunity to realize that laws have to be obeyed if we are to live in a well-organized society, because these people did not realize it. However, we now want to hand them a blank cheque and tell them: "We have just abolished the death penalty for all murders. We will simply slap a 25-year prison term on you for first degree murder and a 10-year term for second degree murder."

We all know how the Parole Board operates. Things have improved, of course, but it is not normal for anyone sentenced to life imprisonment to go out after serving 15 years and even 10 years sometimes. In addition, there are some cases—I could quote statistics—where within one year policemen again come face to face with those who have already committed a similar crime.

I am not a blood-thirsty man. Of course, I do condemn violence, but Parliament must apply the laws it has adopted.

We could obviously talk about positive action the federal and provincial governments could take to prevent violence in our country and try to reintegrate into society those youngsters who have slipped off the right path. In my opinion, the rehabilitation system is totally defective. It should be reconsidered in detail so that we might bring positive action for the rehabilitation of the young.

Of course, if the death penalty is abolished for first and second degree murder, and if the imprisonment penalty is to be 25 years, those who have been sentenced for these murders will be left there to rot for 25 years, while we could have devised other systems.

[Senator Asselin.]

I think that some American states as well as some European countries have another system under which they try to give some work to the prisoners. God knows that Canada, with its vast territory, could develop a system under which prisoners could work instead of being locked up in their cells for months and years. It would be easy, for example, to find work for them to do in the north just so they could contribute something to the state instead of enjoying free room, board and clothing. They say it costs the state $15,000 a year to keep one prisoner in jail, including food, shelter and clothing. I think we should do something to get the prisoners out of their cells. Why not have them work in the Arctic so they can contribute something to the state and get rehabilitated in preparation for their future release into society?

We could talk much longer on this matter. However, we were asked to be brief because many senators wish to speak on this important question. I say that I am personally in favour of retention because of the current social situation throughout the country. On the other hand, I say that we will have a truly free vote. Honourable senators sitting on the opposition side will vote freely without any pressure and, in view of the commitment made last night by the government leader, I hope that the vote will also be free on the government side.

[*English*]

I hope that there will be a free vote on your side. On our side there will be a truly free vote. Everyone will vote according to his conscience.

Honourable senators, I have nothing to add at this time, except to tell you that I shall vote for the retention of capital punishment.

Hon. Richard J. Stanbury: Honourable senators, I do not delude myself that I can add anything new in this important debate, or that there is anything that I might say which might change the mind of anyone who has already made up his or her mind during the long series of debates which we have had in this house and which we have had the opportunity of observing and hearing in the other house.

● (1030)

It saddens me that we have not been able to demonstrate greater public support for this bill than has been indicated in the Gallup Poll to which Senator Asselin has referred. I would have preferred that we as parliamentarians had made a greater effort to discuss the matter with the public at the local level and to explain and persuade before having to make this important decision. The public is in a bad mood at the present time. They feel that Parliament is not really representing their wishes. That applies to many issues which have been particularly abrasive lately, but perhaps it applies most dramatically to the question of capital punishment. The result is a loss of faith in the ability of the parliamentary system to reflect the changing social and religious mores of society, as well as the growing insistence on individual and community prerogatives.

The difficulty in which we find ourselves is that, as parliamentarians, with access to great volumes of information and opportunity for extensive discussions, we feel that there is a rational basis for each and every one of our

decisions. Yet, almost any decision draws voluminous and vitriolic denunciation as soon as it is made.

The easy thing to do would be to blame the media. Certainly, they give much broader coverage to the negative aspects of any issue than to the positive. I do not want to excuse the media. The instances of irresponsibility are too numerous and too easily documented. I do want to confess, however, that we as parliamentarians contribute to the problem by not working hard enough at explaining our rationale and the need—sometimes the vital need—for the programs and policies we espouse. It is that weakness which makes it absolutely essential that, until we find the will and the ways to better communicate, we continue to operate on the theory of "responsible government" rather than "representative government". Until we can involve the people in a thoroughgoing discussion of the realistic alternatives on any issue, I am afraid that we shall have to continue to simply be responsible to them rather than pretend to represent their point of view. That involvement may seem like an impossible dream, but in Switzerland it has been accomplished. Issues are developed by petition, discussion papers are prepared and distributed, discussions in depth take place in town meetings, and the decision is made by referendum. After that kind of preparation, the public may well be expected to accept the responsibility of making wise decisions on such difficult issues as taxation, foreign aid and capital punishment, which an uninvolved public would treat in accordance with the most recent whimsy of society or the blandishments of the latest demagogue.

Unfortunately, we have no such public participation in Canada. Gallup Polls here have shown that there is a sentiment against foreign aid; there are contradictory desires for lower taxation and greater services, for less foreign capital and yet for more jobs, and there is an apparent desire to retain capital punishment. On the other hand, the electorate has shown a great facility for choosing individuals of ability and character to be responsible to them rather than representative of them.

The Canadian electoral system has produced, directly in the other place and indirectly in the Senate, members of Parliament of the highest calibre in terms both of character and ability. Almost never has there been occasion to impugn the honesty or motivation of any member of Parliament. Almost never has there been any suggestion that a member of Parliament acted other than in accordance with his judgment of the greatest public good. The Canadian electorate has chosen these people, and they have chosen well. They have chosen them because they like the cut of their jib, their approach to public problems and their dedication to public service. Now it happens that the individuals whom the Canadian people chose to make legislative decisions for them and whom they knew to be responsible to them at a future election, because of the cut of their jib and because of their approach to public problems and their dedication to public service, decided to abolish capital punishment, just as they have decided to continue and increase foreign aid, to rationalize public service, as we saw in the amendments to the Medical Care Act in recent days, and to screen foreign investment.

Some years ago, all parties supported a policy which would permit Canadians of each founding group to speak to the government in their own language. There is evidence that even yet that policy, so unanimously supported by parliamentarians, is neither understood nor accepted by a great many Canadians. But the parliamentarians knew that that policy was essential, not only to preserve the unity of Canada but to accord simple justice to people whose ancestors came here three hundred years ago. It may be that parliamentarians did not then, and may not now, represent the opinion of all Canadians in adopting and defending that policy—particularly when some application of it is perceived as threatening some special vested interests—but surely no one would suggest that the members of Parliament were not right to take such a necessary decision on behalf of the people to whom they are responsible.

Now mind you, we owe it to those people to inform them, to explain to them, to persuade them, and we have not done that job very well, either on the nature of bilingualism or on the issue of capital punishment. And if we do not do that within the next two years the people may well feel that those who voted in favour of this bill and supported various other controversial policies have not fulfilled their responsibility to them, and those members of Parliament who must submit themselves for re-election may find their parliamentary careers foreshortened. But I believe that the voters will look at all of the judgments and actions of the member and the party of which he is an adherent, and again will decide, not whether or not they liked this or that particular judgment but whether they like the cut of his jib, his approach to public problems and his dedication to public service.

So it remains only for those of us who intend to support this bill to satisfy ourselves that, on the basis of all of the evidence before us, all of the expertise which has been made available to us, all of our personal experience and all of the debate in the two Houses of Parliament, we can now say that the decision we intend to make is a rational one, in tune with the urgings of our conscience and in the best interests of present and future Canadians. I have no difficulty in satisfying myself in those respects.

There is no evidence that capital punishment will deter others from committing capital murder and thereby protect society. I can conceive of no other reason which would justify the taking of a human life. It does nothing for the victim or his family, it precludes rehabilitation to a life valuable to society, it denies to the innocent family of the criminal the hope and benefit of restoration, it brutalizes society by institutionalizing the ultimate in violence, and it signifies not only the failure of society to deal with its social problems but its final surrender to hopelessness of the possibility that it will ever be able to do so.

Honourable senators, I will vote in favour of this bill.

Hon. Edgar Fournier: Honourable senators, first let me say that my remarks will be very brief, for more than one reason.

[*Translation*]

If I dare interrupt five years of silence resulting from several illnesses, the effects of which still bother me, it is because I consider it an important duty to express my views on this crucial matter of capital punishment.

[*English*]

Honourable senators, I first want to thank the sponsor of the bill, Senator Lang. I am inclined to agree with almost everything he said. However, I regret that it will take more than that to change my view. The honourable senator spoke with sincerity and personal conviction. He was so right when he said that opinions are formed and long debate will not achieve anything.

● (1040)

Honourable senators, I regret to say that this bill will go down in history as being among the many mistakes this government has made. Certainly more could be said about it. I am of the opinion that in this bill we are placing the bulls behind the plough instead of in front.

Instead of talking today about capital punishment, we should first talk about prison reform and make sure that our penitentiaries and correctional institutions are as they should be—houses of reform where no one would desire to live. I regret to say that our penitentiaries and correctional institutions are now approaching the style of a university campus with all its modern facilities inside and outside. Discipline is at a minimum and caretakers and guardians have very little left for self protection. Hard labour, the lash, the board, and the whip have been banned, as have all forms of corporal punishment. I believe that unless we bring about the necessary penal reforms and restore the order of yesterday, we are far from being ready to talk about capital punishment.

Too much emphasis has been put on those "poor" criminals who commit murder at will and without respect for freedom or individual rights. Let us place the emphasis on the correctional institution itself and make it a real house of correction. A person would think twice before committing murder and other serious crimes if he fully realized that the easy life was all over within the prison walls and that the parole board would not open the door too readily. When these reforms have been carried out, then we will be ready to talk about capital punishment.

Justice needs reform all the way down the line. I need not tell you where it should start. Let us not wait until it is too late and the public is taking justice into its own hands, with resulting bloodshed. Think of it seriously.

Honourable senators, I am prepared to admit that hanging a criminal by the neck is not the most logical and appropriate punishment in this year of 1976. In olden days hanging served several purposes. A public hanging on the street corner before a wide audience was a deterrent, a warning that it could happen to anyone. However, in this day and age death by hanging should be replaced by medical means. It would be much more humane.

[*Translation*]

Honourable senators, let us not forget our responsibilities towards society at large. People expect us to provide the protection they want and deserve. I will vote in favour of retention.

[*English*]

Hon. John M. Macdonald: Honourable senators, it seems to me that I have been making speeches on capital punishment many times over the past number of years. Indeed, this must be at least the fifth time.

[Senator Fournier.]

As I believe in the total abolition of capital punishment, I supported the bill for partial abolition for a trial period because I felt it was a step in the right direction. Then, in 1973 I introduced a bill in the Senate, Bill S-8, which provided for total abolition, and more recently I spoke on Senator Argue's bill, Bill S-23, on the same subject. I did not vote for the bill extending the trial period for partial abolition because I felt then that that bill should have been for total abolition—permanent total abolition, not only for the crime of murder but for every crime for which death is the penalty.

I can see now I underestimated the strength of the opposition to such a measure extending the time, and I now believe such a measure would not have passed at that time. Indeed, the strength of the opposition to Bill C-84 is surprising, and I expect the close vote in the House of Commons is a pretty accurate reflection of the opinion of Canadians as a whole on the subject.

Having spoken on the main subject matter of this bill so often, I cannot now offer any new arguments to justify my conviction that capital punishment should be abolished in Canada once and for all. I can only briefly restate my reasons for my belief.

In discussing this matter I think we can all agree that the state has the right to take the life of a murderer if such extreme action is necessary. So the question to be answered is: Is it necessary? Personally I do not think so. But I do respect the convictions, which I know are sincere, of those who oppose this bill. There are two main arguments against the bill. One is that the only fitting and proper punishment for a murderer is to kill him. Let the punishment fit the crime, they say. Perhaps in days long gone, in a less enlightened age, in a primitive society, there may have been some validity to this argument. Life was cheap and held in small account. This is not the case today, at least I hope it is not. No longer does our society try to make the punishment equal to the crime or the same as the crime. Even if it were desirable it is not possible. Could the state steal from the thief? Could the state rob the robber? Could the state hijack the plane of the hijacker? No. Harsh, horrible and vicious punishments have been done away with, and the only exception will be abandoned with the passage of this bill, as far as murder is concerned.

May I say at this point I regret that the bill does not go the whole way. I hope that in due course the National Defence Act will be amended to abolish the death penalty under that act.

Honourable senators, I ask you to reflect on the fact that back in 1832 there were 220 offences in England for which death was the maximum punishment. It was as late as 1810 when Sir Samuel Romilly introduced a bill in the British House of Commons to abolish the death penalty for stealing the sum of five shillings from a shop. The bill was defeated. Remember, too, it was only at the personal request of Queen Victoria that the death penalty was habitually commuted on youths under 18 years of age. Yes, we have come a long way in our thinking of how to punish our convicted criminals, and I hope we will take one further progressive step and pass this bill.

The second main argument for the retention of capital punishment is that it is necessary as a deterrent—that its application deters potential murderers from carrying out

their evil intentions. Of course, it cannot be proved whether it ever has. Is the death penalty a deterrent to crime? It is indeed strange to me that it did not deter the commission of those 220 offences before 1832. I remember reading of a case in England where a ten-year-old boy was sentenced to be hanged for committing a small theft. The sentence was appealed and the appeal was denied by the judges on the ground that the execution of that boy would deter other ten-year-olds from committing similar offences.

● (1050)

If the death penalty is a deterrent to crime, then it would seem logical to extend its use as a punishment for all serious crimes and thereby prevent the commission of such offences. If it is felt that the death penalty is a deterrent, I cannot understand why it has been gradually abolished over the years. We hear people say that the death penalty should be retained, but that the murderer should be killed in a more humane way. Deliberately to kill a man in a humane way is, to my mind, a contradiction in terms. If it were to be used as a deterrent, then I think the execution should be carried out in the most public and most horrible way imaginable. If we will kill murderers as a deterrent, why not bring back the old method of execution in which a man was hanged, drawn and quartered and his head put on a pole somewhere in a city to deter others from committing similar crimes?

Senator Greene: On Parliament Hill.

Senator Macdonald: That would be a good spot to do it. Personally, I do not think it is a deterrent. I do not think it is the penalty which deters criminals. The real deterrent is the certainty of swift apprehension, arrest, trial and conviction. If the murderer is not arrested, or if arrested he is not brought to trial for months, or if the trial is not conducted with dignity and decorum, then there is no deterrent.

I saw a news item recently which indicated that 50 murders had been committed in Montreal up to the end of June. I doubt if the fear of death would have prevented any of those crimes. But I have not seen any figures to show how many of those 50 murderers were arrested, how many were brought to trial or how many, if any, were convicted.

Honourable senators, let us not confuse the issue. In my mind it is not the penalty which deters criminals. I repeat that the deterrent is the swift, sure arrest and the certainty of speedy trial and conviction of the criminal, and I do not think enough emphasis has been put on that as a deterrent.

It has often been said that there is too much sympathy—a misplaced sympathy—for the murderer and not enough for his victim. I do not agree. Personally, with no sympathy for the murderer but with great sympathy for his victim, I do not see that the state is serving any useful purpose by taking the life of the murderer. With every sympathy for the widow and the children of the victim, I do not believe that the grief of that widow or the grief of those children would be lessened to any extent by the state's making another woman a widow or making other children fatherless.

No matter how much we may disagree on the subject of capital punishment, I know we all have a common purpose and a common objective in the administration of justice. That common purpose, that common objective, is to protect and to safeguard the sanctity of human life. I think we can all agree that nothing is more precious than human life, and that it is the first and highest duty of the state to protect that life.

It may well be said that we live in a society in which violence is becoming more and more commonplace. We are no longer greatly disturbed by acts of violence; there is a normal tendency to meet violence with violence, and violence seems to breed more violence. There seems to be a chain reaction. Some positive action is necessary on our part to break that ever escalating chain of violence. I believe we can at least help break that chain by abolishing capital punishment.

Honourable senators, believing as I do that the execution of criminals is a harsh and horrible punishment, a punishment which is a dreadful legacy from our past; believing as I do that it has no deterrent effect; believing as I do that capital punishment is a backward step which diminishes respect for the sanctity of human life, I support Bill C-84.

Hon. L.-P. Beaubien: Honourable senators, I intend to vote against Bill C-84. Voting for or against this measure is a serious decision which every senator must come to grips with, and because it requires a good deal of thought I want to explain my position, which really is quite simple. For the last two and a half to three years this subject has been before us and we have studied it and discussed it from every conceivable angle. From everything I have heard, read and understood, I am convinced that the majority of the Canadian people are against this bill. In my opinion, in a way it is more important for a member of the Senate than for a member of the House of Commons to do what he feels the majority of the people of Canada want done, because if the members of the House of Commons are not doing what the public wants they can be voted out of office; but we in the Senate are not subject to re-election. Therefore, if we are convinced that the majority of Canadians are against this bill, I think it is our duty to vote against it.

Now, who am I to say that my little conscience will not let me do what most Canadians want me to do? I am here, as all of us are, to do what the Canadian public wants us to do. Since we do not have to face the electorate, I think we have to take that into consideration when voting on this measure, which is one that the majority of Canadians do not want passed.

Hon. Louis-J. Robichaud: Honourable senators, it has been said that everything concerning law and order, and particularly everything concerning capital punishment, has been said either in the other place or here, or the press, on previous occasions, so very little can be added to the argument, whether it be for or against capital punishment or for or against Bill C-84 as we have it before us.

On a previous occasion, in December of 1974, I made my position clear in this house, and I have absolutely no reason to change that position. I am a strong believer in law and order. I am a strong believer in the fact that our Houses of Parliament have to protect our society. I am a strong believer in discipline. I think that one of the ways in which we can exercise discipline is by making incorrigibles pay a just penalty. These are individuals who have

committed a number of crimes, and against such people we must be protected.

● (1100)

I might have been persuaded to change my mind on this issue by the eloquence of Senator Macdonald. I respect his opinion, as I respect the opinion of my colleague Senator Stanbury. However, I have not changed my mind and am maintaining my position. Before proceeding further, I would like to associate myself with the remarks made earlier this morning by Senator Molson. Ultimately, this house is going to vote on Bill C-84, but I think it the height of arrogance for anyone in the other place to say that the people of Canada have decided this issue. When a vote was taken in the other place, according to press reports it was 124 to 130, which means that opinion in the other place was not at all clear-cut. A vote has yet to be taken here, and Bill C-84 will not become law until that has happened and until the bill has received Royal Assent.

Senator Macdonald said that, at least to his knowledge, there is no evidence anywhere that capital punishment is a deterrent. That is an opinion, and it is an opinion that I respect, but it so happens that three or four months ago I was a member of a television panel discussion, along with a number of legislators, which also included an ex-convict and the deputy chief of police of Ottawa. The deputy chief of police reported the following fact. In the course of committing a crime at a bank, at gun point, a criminal was approached by a policeman who also drew his gun, so each man had his gun drawn on the other. The bandit said to the policeman, "Will I be hanged if I kill you?" What I am going to say next was said on television, and I hope you will excuse the expression. The policeman replied, "You're goddamn right you'll hang," and the gangster dropped his gun. He did not kill the policeman, because he was afraid that he would suffer capital punishment. This may not illustrate the strength of the case as well as it might, but it is one instance of the fear of capital punishment most definitely being a deterrent, and I firmly believe it is a deterrent, although I respect the views of those who believe it is not.

I am not a "sanguinaire"; I am not vengeful. I believe, however, that in today's society there are, as there was in the society of 20 years ago, in the society of 200 years ago, and even of 2,000 years ago, people who most definitely could be described as incorrigibles. There are those who have reached a stage at which they are beyond all hope of rehabilitation. It is against these people that I would like to see society protected, and more particularly our families, friends and neighbours. That is all I am asking for, that is why I am opposed to Bill C-84, and that is why I am going to vote against it.

I could have come here this morning armed with a pile of statistics. Since I introduced a bill in this chamber in December of 1974 I have accumulated three fat files of statistics and documentation on this issue. I have also received correspondence from across this land, and 95 per cent of it was in favour of full retention or some form of retention.

I respect the will of the people of our country. I think we live in just about the same context here as they do in the United States. In the United States they had abolished capital punishment, but within the last two or three weeks it has become apparent that just about all 50 states of the Union want it reintroduced. Why is this? It is because in the United States today, and in some of the cities of Canada, a man cannot safely walk on the streets alone after sunset. In the United States, "freedom" is a precious word, but they will tell you, if you are in Cleveland, for example, or Buffalo, or Los Angeles, or Washington, or New York, "Don't walk alone on the streets after 5 o'clock in the evening, because you'll be clobbered and you're liable to be killed." All of this in the name of freedom.

I believe that in the United States they are returning to the principle of law and order. They are coming back to the idea of a just penalty for the commission of a crime, and I do not think we should backtrack in this country.

It has been said, with some measure of justification, that capital punishment is barbaric. I am not going to discuss the method of effecting capital punishment this morning. I do not think it is barbaric, and I am perfectly honest with my honourable colleagues here when I say that. I think that the culprit, who in many cases has offended more than once, expects exactly what is coming to him, and if society does not inflict the death penalty in some cases he does so himself in his cell.

I referred a moment ago to a panel discussion I participated in on television, and I mentioned that one of the members of the panel was an ex-convict. This man had served 12 years in the penitentiary, and he said in public, on television, that for a murderer to go to jail for 25 years is a much stiffer penalty than capital punishment. He said, "As far as I'm concerned, I would prefer capital punishment to having to serve 25 years in jail."

If we want to be so humane towards the culprit, why don't we give him what he expected in the first place, instead of forcing him to exist in an isolated cell for the next 25 years of his life?

● (1110)

I took note of a remark made by Senator Asselin this morning criticizing certain individuals in the other place because they might have exerted pressure upon members to vote in favour of capital punishment. I do not agree with that type of criticism because I think it was perfectly fair and justifiable for any cabinet minister, or any member, in the other place to talk to anybody else and express their views, whether for or against capital punishment. I don't think undue pressure was exercised in the other place, and the proof of that fact is that the vote was taken yesterday and it was 124 for retention and 130 for abolition, so there was no undue pressure exerted in the other place. Although I appreciated generally the remarks made this morning by Senator Asselin, I cannot subscribe to the view that undue pressure was exerted on any of the members on either side of the house or of any of the four parties in the other place. That I cannot swallow.

Senator Flynn: The speech of the Prime Minister was an exercise in pressure.

Senator Robichaud: The speech of the Prime Minister was a classic example of a man who speaks his own mind, and he has a perfect right to do that, just as Senator Flynn has a perfect right to do so and just as I have the right to speak my own mind. I do not have to borrow Senator Flynn's ideas; neither do I have to borrow Mr. Trudeau's

ideas. I speak my own mind, and that is what I have done this morning. I am going to vote against my own Prime Minister, against the will of my own Prime Minister—

Senator Asselin: But it is supposed to be a free vote.

Senator Robichaud: It is, and when 124 members of the other place vote to retain the death penalty, that, in my view, is perfect proof that it was a free vote—just as it is going to be a free vote here. I am a Liberal—

Senator Flynn: We have known that for a long time.

Senator Robichaud: —and I have always been a Liberal, and I have never had to apologize to anybody in this place or in any other place for being a Liberal. But, as a Liberal, I am going to vote against Bill C-84 because I believe conscientiously that by passing Bill C-84 we are not serving our society as well as we should. As I have said before, honourable senators, there are so many things that could be said on this issue and so many things have already been said on it, but the issue is now clearly before us. There is no question of finding a happy medium between the two; it is either yes or no, and, in my books, on Bill C-84 it is a flat no.

Hon. Henry D. Hicks: Honourable senators, earlier in this session I spoke in support of Bill S-21, which was introduced by Senator Robichaud who has just spoken, and on February 20, 1975—rather a long time ago now—I explained my reasons for supporting the bill and for supporting the retention of capital punishment in some instances. I do not think it is necessary for me to do more this morning than to recapitulate the arguments that I used then and perhaps to make one other observation.

I started with the proposition that it had long seemed to me apparent that there are in our society some persons who by the monstrousness of their own actions forfeit their right to the protection of society, and I believe that society has the right to remove them. I then traced the history of earlier private vengeance which was often wreaked upon the murderer by the relatives or the loved ones of his victim, how in a more orderly society this had been replaced by law and order, and my fears that there was a danger that respect for law and order might not continue if society was the least bit reluctant to enforce the laws strictly and even on some occasions to enforce the carrying out of the supreme penalty in taking the murderer's life. I expressed myself as being not entirely in sympathy with those who upheld the sanctity of any human life, no matter how miserable, no matter how clearly the criminal had demonstrated his opposition to society and his unwillingness to live harmoniously in the society in which we live today. I said that I was not so much concerned with that life as I was with the quality of the lives of the majority of the men and women in this country, and in other countries, who are law-abiding citizens and who want to be able to live in a society other than a terroristic one.

I also expressed the view, and I underline it today, that I am more concerned with the plight of the victims of the murderer than I am with the plight of the murderer himself, and if this bill should pass and become the law of the land, then it seems to me to be urgent that the lawmakers of this country, including those of us who are members of the Senate, should address ourselves at an early date to providing a system of compensation, or at least the assurance of proper care of the dependants of the murder victim so that his children should not be denied proper education and proper care and so that his widow should not be put in a position of penury or near penury for the rest of her life. And I know that all of us can think of some examples of that having happened.

I did not deal with the question of whether or not capital punishment was a deterrent because, frankly, I do not know. I do feel very strongly that those who categorically assert that there is not one bit of evidence that capital punishment ever acts as a deterrent are not entitled to that categorical view, but I admit that it is very difficult to get exact evidence to show the nature of the deterrent effect of capital punishment. However, that was not the basis of my support for the retention of capital punishment, but, rather, my basis was that some persons, by the monstrousness of their own acts and by their rejection of the rules of our society, had forfeited the right to the protection of that society, and I developed it from there.

There is just one related observation, however, arising out of the deterrent effect, which I might make. In recent years the activities of so-called terrorists have commanded a great deal of attention throughout the world, and it is not unusual, as indeed the last incident in Uganda demonstrates, for terrorists to hold hostages, and sometimes not only to hold them but to bring about their death, while demanding the release of other convicted terrorist murderers from jails in various parts of the world. It cannot be gainsaid that if those terrorists who were convicted murderers had themselves been put to death, there would have been no possibility of further terrorist activity involving the taking, retaining and sometimes killing of hostages in order to try to secure the release of convicted murderers.

I realize that that is a somewhat peripheral argument, and I realize that the actions of the Parliament of Canada alone could not have any very serious effect on this. However, it may very well be that if the trend that has been observed during the last two decades continues, then world society in general will have to take note of this situation. In any event, I do not think it is necessary this morning for me to elaborate any further. My views are on record in *Debates of the Senate* of February 20, 1975, at page 557, and I have no reason to change the views I expressed then. Accordingly, I feel it is my conscientious duty to vote against Bill C-84.

● (1120)

Hon. Ernest C. Manning: Honourable senators, we are met to debate this important bill under circumstances which must be disturbing to every honourable member of this house. Honourable senators already have drawn attention to the fact that the government apparently has dismissed the decision of this house as irrelevant to its decision to abolish capital punishment. That is not only an arrogant insult to every honourable senator, but it ignores the Constitution of Canada which makes this house an integral part of our parliamentary system.

Equally indefensible is the fact that, after the longest session in Canadian parliamentary history, legislation of such great public concern and importance is brought to our desks 24 hours before it is intended that the house should adjourn for the summer recess. If this was an isolated case,

and if there were extenuating circumstances, we might not be too critical. But surely, in view of the many times this has happened previously and the length of the present session, which gave the government ample time to make certain that legislation of this importance would come before the Senate with adequate time to do the job we are here to do, this is completely indefensible.

My own inclination under these circumstances is to urge this house to refuse to debate this bill until we return in the fall. However, I realize that as a minority voice that would be futile. I do say, however, that unless the Senate faces up to this repeated disregard for its role and responsibility in the parliamentary process, I for one feel that the value of this chamber will come into serious question, and some of us will have no alternative but to consider whether we are making any meaningful contribution to the governing of Canada.

Turning now to the bill, I very deeply regret and am saddened by the decision in the other place to pass this particular piece of legislation. I say that, first, because as honourable senators have already pointed out, it is contrary to the will of the vast majority of the Canadian people, who rightly feel they have been betrayed by those whom they have elected to represent them. I agree with those senators who have pointed out that a betrayal of this kind could not come at a worse time. Our parliamentary institutions and the confidence of the public in governments today is at a very low ebb. There is a great deal of cynicism and unrest, and a feeling that the parliamentary process is no longer serving the interest or reflecting the will of the Canadian people. To have another body blow of this magnitude levelled at public confidence in government at this particular time is indeed serious to the best interests of this country.

But there is a second and more serious reason for my deep regret that this legislation is before us at all. This bill marks the government's final abandonment of a fundamental principle of justice. That principle is that wrongdoing carries, and must of necessity carry, a penalty commensurate with the degree of the wrong committed. For a worthwhile society to endure, its system and standards of justice must be based on permanent, immutable moral standards and not on the current moral philosophy of the government that happens to be in power.

There is something very special and very sacred about human life. After all, man is not merely another animal, but a created being with a living personality endowed with the ability to reason, to think, to examine and weigh evidence, to arrive at conclusions and make decisions for which he must then assume personal responsibility. If in that context a man deliberately decides to take the life of another person, meaningful justice demands that nothing less than the forfeiture of his life in return will satisfy the requirements of justice.

I do not refer to cases of murder committed in the heat of passion or under circumstances which have temporarily robbed the offender of control of his faculties. That is why we have always provided in our law for sentences in cases of that kind to be commuted by the Governor General in Council. What I am speaking about is cold-blooded, deliberate, premeditated murder. Reference was made by our honourable colleague Senator Hicks to the frequency today of murder associated with hijacking and kidnapping. Men do not do these things on the spur of the moment. They are carefully planned operations involving the intention, if necessary, of taking the lives of innocent victims. That is the type of murder to which I refer. I repeat that in such cases in which responsible individuals decide deliberately to take the life of another person, meaningful justice demands no less than the forfeiture of the life of the offender in return.

Humanistic permissive society has consistently pressured for the elimination of the element of punishment for wrong doing in the administration of justice. Our present-day society has become very strong on sympathy for those guilty of wilful murder and, in fact, there often seems to be more sympathy for the murderers than for the innocent victims of their crimes. Permissive society is always ready to place blame for crime and violence on everything and everybody except the guilty person. It places great emphasis on the state's responsibility to provide treatment and rehabilitation for guilty criminals, including murderers. There is a proper place for all of those things. But the fact remains that modern permissive society has become very much against "the punishment to fit the crime," which it insists on regarding as vengence rather than an integral and necessary part of meaningful justice.

● (1130)

If we give to the priceless possession of human life its true dignity and worth, the essentials of meaningful justice cannot be met in the case of willful murder apart from the death penalty.

We are told that in this legislation the alternative of a minimum of 25 years imprisonment is an appropriate penalty. I draw the attention of honourable senators to two things: first, there can be no real comparison between a prison term and the forfeiture of life. They are not comparable. Secondly, in the light of this country's experience over the past 25 years, can anyone seriously think that the 25-year minimum jail term in this bill really means anything? Long before the 25 years are up, permissive society will decide that a 25-year minimum prison term is cruel and unnatural punishment, and this will be followed by the adoption of more lenient parole provisions, and first-degree murderers will again be out on the street long before the 25 years are up.

There is so much that can be said on this subject that one faces the problem of what to omit. I do not think we are going to change many minds at this late stage, but we do have a responsibility which we cannot avoid. We in this house are not subject to dismissal by the electorate if we disregard their will, and surely that places on us an even greater responsibility to respect their will and approach this subject with the utmost seriousness.

I shall close with a brief comment on two matters which relate to this question in a very direct way. It is regrettable that when capital punishment is debated, almost without exception it is reduced to whether we should or should not abolish hanging, as though hanging were the only means by which murderers can be executed.

There may well be more desirable methods of execution, and we should not relate our judgment on the matter of capital punishment to a particular method of execution which may be abhorrent to some.

Finally, there is the question of whether capital punishment has a deterrent effect. I agree with my colleague, Senator Hicks, that there is simply no ground on which people can categorically say that the death penalty is not a deterrent to murder. It is not something which can be proved one way or the other by statistics. However, I submit that simple logic dictates that there is a valid argument that the death penalty is a deterrent. We argue, for example, that putting a police car on the highway to check speeders is a deterrent to others. When drivers see a police car stop a speeder, for the next half hour everyone lessens speed. Why? Because the psychological impact of seeing a penalty imposed for a violation of traffic rules acts as a deterrent.

Can anyone argue logically that if there is a deterrent effect when minor penalties such as fines for speeding are imposed there would not be a deterrent effect to a far greater degree when a man pays with his life for the offence of taking the life of another?

It will be a sad day for Canada if the bill passes. It is wrong in principle. It will be detrimental to the best interests of society. It violates the fundamental principle of meaningful justice, and for these reasons I oppose the bill.

Hon. Hazen Argue: Honourable senators, I welcome the bill which is now before the Senate. I welcome it because I feel that the Prime Minister has given leadership in a progressive and far-seeing manner. He has shown that the Canadian Parliament and the Canadian public, with him, will march in the vanguard of the nations of this world toward a more refined civilization. In my opinion, it is good on all counts that the bill should be before the Senate today.

Senator Flynn: Or tomorrow.

Senator Argue: Some have said that there was not a free vote in the other place. Some have said that so far as the cabinet is concerned it was not a free vote. I am not party to the deliberations of the cabinet but, in my view, there was cabinet solidarity.

I am a member of the Liberal caucus, and there was no pressure that I saw exerted on individual members of the caucus in any way, shape or form.

Senator Perrault: That is right.

Senator Argue: The Prime Minister participated in the debate as a member of the caucus, and there was no question of government or party solidarity on the issue.

The Conservatives, I suppose, had a free vote. The leader went one way, and the party went another. It was supposed to be a free vote, but I am not too sure that the performance of the Conservative Party in the other place was in keeping with the best parliamentary practice.

I say that because I have counted the days devoted in the other place to second reading. There were 20 days spent on second reading, and seven days on third reading, of the bill. In the second reading debate, the speakers were: 65 Conservative, 37 Liberal, seven NDP, six Social Credit, and one Independent. On third reading, there were 15 Conservative speakers, five Liberals, two NDP, three Social Credit, and one Independent.

I am pleased that the bill is here, and I am pleased to support it. I am proud that the Prime Minister stood firm and showed leadership. But I think it is a disgrace that any measure, no matter how important, should take 27 days of the time of the other place in any session and, by so doing, make it more difficult for other more important legislation to come before Parliament.

There have been objections raised that the legislation has been dumped on our laps, I think Senator Manning said, in the last 24 or 48 hours of the session, that it makes a mockery of the Senate and puts us in a difficult position.

● (1140)

If I interpreted Senator Manning's remarks correctly, it is his view that the Senate is going down in esteem across the country to the point that he might have to reconsider his position as a senator. He will no doubt tell me whether I am correct but, as I interpret his remarks, he is so fed up with the Senate that he is considering his future course of action, which might include resignation from the Senate. That is the way I took his remarks.

I do not consider resignation from the Senate to be the course to take. I have been as critical of the way in which the Senate operates as any. The Senate makes mistakes from time to time, but one cannot improve the Senate by becoming disgusted to the point of resigning and abrogating one's responsibility as a senator. In my view, what we in the Senate should be doing is discussing the important public issues of the day, the discussion of which in some instances should be initiated in the Senate, following which we should have the guts and the foresight to arrive at decisions on those issues, and we should arrive at such decisions in a reasonable length of time. There is nothing that brings the Senate into lower esteem than an inability to make decisions.

I am pleased with the bill before us. I do not feel it has been proven in any way that capital punishment is a deterrent. After reading the speeches, statistics and reports, I am convinced—others may not be so convinced—that murder by the state increases the incidence of murder generally; violence by the state breeds violence. In my view, as the countries of the world go forward in their march to a higher civilization, there will be fewer and fewer murders, and capital punishment will be banned in country after country.

Statements have been made and evidence produced in support of the proposition that the incidence of capital punishment falls more heavily on accused persons in the lower income stratas and those belonging to minority groups. I think we all understand that if an accused person has large sums of money available for proper investigation and the hiring of the most capable counsel, his chances of being hanged are remote. That is another of the reasons for my supporting this measure.

I am not happy with the law as it presently stands, namely, that those found guilty of murdering a peace officer or prison guard are subject to capital punishment. I do not feel that this kind of discrimination is necessary. In reading over previous speeches I have made on this subject, I see where I pointed out that the danger to the life of a peace officer in the course of his duties was much less than the danger to the lives of persons in many other occupations—those engaged in mining or farming, for

example. I have those statistics. This very point has been forcefully brought home to me in the course of the last few weeks, because within 10 miles of where I reside in Saskatchewan two farmers have lost their lives while carrying out their work. On all grounds, in my view, it was a mistake to single out peace officers and prison guards as being in a separate category.

Senator Choquette: Those were accidents, not murders.

Senator Argue: Yes, of course. I am simply talking about the relative dangers inherent in various occupations, which is something I feel is important; others may not.

Senator Grosart: You should not drive a car.

Senator Argue: That might be true.

I should think that if the energy of parliamentarians were directed to doing everything possible to prevent accidents of one kind or another across this country, we would be doing far more for the preservation of human life and the protection of society than by expending so much of it on debating this measure.

I was proud of the leadership of the Prime Minister. I was not proud of the action of a former Prime Minister, the Right Honourable John G. Diefenbaker.

Senator Flynn: Honourable senators, I rise on a point of order. It has been stated very often that one can refer to statements made by ministers when such statements represent the official position of the government. However, to comment on a speech made by an individual member of the other place, I think, is entirely out of order.

Senator Argue: Honourable senators, I am not quoting from the debates of the other place, as the rule states. I am merely stating that a well-known public figure in this country, a man who rose to prominence, who gained public acclaim in substantial measure because of his championship of the cause of abolition, a man who rose to power through the acclaim given him by farsighted people, has turned himself inside out and taken the opposite course.

While a member of the other place, I shared an office with the late Ross Thatcher who, in his very first years as a member of Parliament, introduced a bill to abolish the death penalty. I think those of us who are in favour of abolition of the death penalty are on the right side, the correct side, and I, for one, am fully confident that Canada has seen the last hanging, the last taking of a life by the state in punishment. I make that statement despite the debate that took place in the House of Commons, and fully aware that a Progressive Conservative government, or some other government, might be in office in years to come.

I was pleased to introduce Bill S-23 in the Senate. I moved the motion for second reading of that bill on April 17, 1975. and was pleased that the late Honourable M. Grattan O'Leary found it possible to second that motion. Over the years, the late Senator O'Leary had been a great champion of basic human rights and freedoms, and I was honoured that he was associated with me in bringing that measure forward.

The Senate debated Bill S-23 from time to time. There seemed to be a good deal of support in the Senate for the abolition of capital punishment. I believe the thinking of the Senate in this regard is more advanced than that of the House of Commons. In passing the legislation banning capital punishment for a period of five years, with the exception of those convicted of the murder of a peace officer or prison guard, the vote in the Senate was 37 to 20 in favour. I would hope that the measure presently before us will pass by at least that wide a margin, if not a wider one.

I have referred to actions I felt the Senate should not take. I refer now in a particular way to the action taken by the administration of the Senate with regard to Bill S-23. That bill was debated from time to time, and then fell into the hands of the administration in the Senate. On July 12, 1975, Senator Prowse adjourned the debate. He has been here very little since. The Whip, or the Leader of the Government in his absence, in the absence of Senator Prowse, notwithstanding the fact that there was a possibility of Bill S-23 coming to a vote, adjourned the debate. I was endeavouring to close the debate on the motion for second reading of the bill, and bring the matter to a vote. At times, the debate was adjourned for a number of weeks in advance. That kind of action was a mistake, both procedurally and from the standpoint of the status of the Senate. If honourable senators wonder why they are not sometimes held in high regard, then, for goodness' sake, let's not emasculate the Senate by preventing measures in the Senate from being debated. We should not become involved in protracted adjournments—adjournments in this particular case resulting in a measure not being debated for more than one year. I do not know of any sillier example I could bring to your attention of how the Senate can act in a way damaging to itself.

● (1150)

It is my hope that the Senate will not only pass this measure, but will make the abolition of the death penalty complete by extending it to cover the provisions of the National Defence Act. Senator Macdonald made a strong speech in the debate on Bill S-23—I understand he did the same again this morning, although I missed part of his speech—pointing out that the provision in the National Defence Act for capital punishment in certain instances is a disgrace to the country, a slap in the face to our armed forces, of absolutely no value historically, and a foolish thing to have on our statute books. I am paraphrasing him, but I have read his speeches, and they were in the strongest possible language. I want to give notice that I am prepared in another session, in the hope that the Senate might act favourably—or, if not act favourably, at least act—to introduce a bill to amend the National Defence Act to provide for the complete abolition of capital punishment.

It has been said that I am here to do what the public wants me to do. That is not what governs what I do here. I take into consideration what I believe the public would like me to do, but I use my own judgment. I consider that I am here to put forward certain ideas on agriculture, because I am conceited enough to believe that I have a little more knowledge about some of these things than perhaps the average person, who has not had the opportunity to acquire the facts that I have had. I have a free telephone; I have a chance to read all the newspapers. I try to keep informed, and I consider it my responsibility to use my own best judgment.

When this bill passes I believe the country will settle down. I believe that the 80 per cent of the population who are today demanding retention of capital punishment will cease their demands, because it will no longer be such a controversial public issue. It is my view that the last time this matter was considered a mistake was made in exempting the murder of police officers and prison guards. That mistake is now being corrected.

I am proud that the Prime Minister led the fight in such a courageous manner in the face of great opposition in the House of Commons and in the country. A friend of mine in Saskatchewan, who is not a supporter of the Liberal Party and who has worked all his life against the Liberal Party, said, "I want to tell you, Hazen, that I think Prime Minister Trudeau is one of the strongest Prime Ministers this country has ever had." I concur in that. I am pleased that this measure is before us today, and it is here because the Prime Minister gave it the kind of courageous leadership that was required.

Hon. Guy Williams: Honourable senators, within hours the abolition of capital punishment will be law. The small majority in the other place is disturbing to me. Does it truly reflect the thinking and viewpoint of the Canadian public? Only time will tell.

There are some very disturbing facts about abolition of capital punishment in this legislation, which will be finalized within hours. In my view, this legislation will make the law enforcement personnel of this country actively defensive in protecting themselves and, quite possibly, with self-preservation in mind, will lead to their shooting first rather than being shot at and killed. This is something that disturbs me very much.

Honourable senators, I intend to be very brief. Let us look at the potential for organized crime. Will this bill increase its activities? I had hoped there would be partial retention of capital punishment. At this moment, I do not believe there will be partial retention of that age-old form of justice, which is changing every decade. It is a major change that is taking place here today. A major step is being taken. Will it truly reflect the thinking of this great Canada?

I spoke on this months ago and made it clear that I believe the death sentence and the noose are deterrents. In my own conscience, I have no reason to change my view on retention.

[*Translation*]

Hon. Maurice Bourget: Honourable senators, as you know, the bill now before us gave rise to lengthy and important debates in the past fifteen years. I was able in the last few weeks to read several speeches made in the other place. I think we can boil down the arguments that were put forward, either for or against the bill, to about eight or ten good reasons. I also think that even if all senators wanted to rehash or review all the arguments put forward for or against capital punishment, I am sure that none of those speeches could change the opinion of each and every one of us on the important decision we have to make. I think the vote in the other place yesterday shows how controversial is this issue and also how each and every one of us must conscientiously take his responsibilities and vote in favour of or against this bill, and I repeat, conscientiously, keeping in mind the main object of protecting society. That is why I do not intend to dwell on the arguments put forward and repeated many times and why my remarks will be quite brief.

● (1200)

I will simply mention two or three reasons which I think militate in favour of retaining capital punishment for premeditated murders.

This morning we heard again our good friend Senator Asselin, and one of the first arguments he put forward was the same as I want to make. To me, the most important responsibilities of the legislators are those that deal with maintaining law and order in our society and respect for the life of its members. I am 68. I noted on several occasions that when a criminal is brought to trial, there is always a tendency to feel sympathy for the man facing his peers. We forget unfortunately, I think, the innocent victim or victims, or those he leaves behind.

I think this is a human reaction. I have felt it myself. You find yourself involved, you have a bit more sympathy for the man on trial, and unfortunately you forget the victims and those who are left behind.

For my part, I see nothing in this bill that can convince me to support the abolition of capital punishment, even by increasing the present term to 25 years, because this will not prevent more people from committing murder, and consequently it will not bring about more respect for law and order. On the contrary, I am firmly convinced that the retention of capital punishment—as Honourable Senator Manning said—whatever form of execution is chosen, will be a better deterrent than its abolition.

I know, and you can see this as much as I do, that there is far from unanimous agreement on this point and that many do not believe that capital punishment is a deterrent. As for me and several others, I believe that instinctively a great majority of people, and even certain criminals, fear death, and that consequently retention of the death penalty is a better deterrent than its abolition. I know that it is very difficult to prove this mathematically. However, people who are well informed on this issue—I shall mention only one; Senator Asselin referred this morning, as others have done, to the position taken by police officers.

In this regard, however, I shall quote only one person who was well aware of this situation, Mr. J. Edgar Hoover, the former director of the FBI, who quoted in a letter sent to some of his officers on June 1, 1960, the words of an American judge who had said the following:

[*English*]

> The death penalty is a warning just like a lighthouse throwing its beam out to the sea. We hear about shipwrecks but we do not hear about the ships the lighthouse guides safely on their way. We do not have proof of the number of ships it saves but we do not tear the lighthouse down.

[*Translation*]

I know of a man who was rather familiar with that question because, as you will recall, he had been for many years the director of the federal police in the U.S.A. This letter is reprinted on page 124 of a report on the death penalty published in June 1965 and compiled by the Honourable Guy Favreau, the then Minister of Justice.

I would like to add that we should retain the death penalty even if, by doing so, we could save the life of only one human being. So, even if some of us seem to disagree with that, I think that the fact that most Canadians—I did not check the figures but Senator Asselin mentioned this morning that 78 per cent of the people of Canada are in favour of the death penalty—I think that this fact should be taken into account because if 78 per cent of our people are in favour of the death penalty, it goes to show, I think, that this kind of penalty should be provided in our penal system. I am not saying that I was impressed or influenced by the fact that most Canadians are for the retention of the death penalty or that I made up my mind according to that fact—no, I am not saying that. However, since such a large proportion of Canadians favour the retention of capital punishment, I feel I must take their view into consideration. If 78 per cent of them favour retention of capital punishment, it is an indication that they have reason to believe that capital punishment is necessary for the protection of our society.

Finally, I wish to add that I do not favour retention of capital punishment in a spirit of revenge. I do not like either to kill someone or see someone hang. But I believe that in conscience it is my duty, being convinced that capital punishment will maintain law and order in our country, to vote against the bill now before us. Similarly, in my opinion, the retention of capital punishment will ensure more protection to Canadian citizens of all ages who are now concerned, as you know, and rightly so, at the appalling increase in various forms of violence in this country. Therefore, honourable senators, I shall vote against this bill.

● (1210)

[*English*]

Hon. Alan A. Macnaughton: Honourable senators, I have spoken twice on capital punishment in the other place, and those speeches are reported in *Hansard* of Febrary 18, 1960 and May 23, 1961. I do not really expect there will be a stampede of honourable senators to the Parliamentary Library to get the last few remaining copies of those speeches.

Senator Smith (Queens-Shelburne): They are collectors' items.

Senator Macnaughton: May I now make a third attempt to present some views on capital punishment? On February 18, 1960, in the lead editorial of the Montreal *Gazette*, there was one paragraph which read as follows:

> But "a little capital punishment"—which amounts to the occasional hanging of a condemned murderer—would seem to be capital punishment in its most repellent, least deterrent, and least defensible form.

Basically, if one can satisfy the emotions inherent in this question, the matter, I think, becomes one of the individual conscience of each senator. My own feeling is that we have now reached the stage in public understanding of this question which calls for a very careful study and a final vote concerning the death penalty.

In principle, I am opposed to capital punishment for three basic reasons. In the first place, capital punishment emphasizes the punitive aspect of justice. I think we have gone beyond that. The word "punitive" of course means inflicting punishment. Punishment is a penalty imposed by the state to discourage crime. We think of it as making the criminal himself experience some of the consequences of his own act. Today a further qualification has crept in, in that we now try to reform the criminal, either by changing his outlook or by working on his character. I say that today, therefore, the punitive aspect of justice really comprises four elements: the element of acting as a deterrent to the commission of crimes; the element of certain retribution, or making the person who has been convicted of a crime suffer for it; the element of reformation, or making an effort to reform the person's character or outlook; and, finally, the element of protection of society.

It is well understood that law and justice exist for the protection of society. We incarcerate persons who have committed crimes—we put them in institutions or we lock them up in jails. It seems to me that the issue with respect to capital punishment is this: If the taking of life is wrong, does a second wrong accomplish anything positive? Is a capital sentence the best and surest way for a community to repudiate the evil action of one of its members?

To my way of thinking, punitive justice is the oldest, most primitive form of social justice, and I think it is now outmoded. It can be compared to the punishment given to a child which is supposed to mend his ways but often has the very opposite effect. I say that punishment by itself is not enough. Punitive punishment is not in keeping with our cultural advancement today. If capital punishment is a deterrent then the custom of public hangings of condemned criminals in public squares should be revived. I think everyone in this chamber will agree with me that this is not only outmoded, but would shock the present-day conscience of our whole society.

The second problem we run into with regard to the matter we are discussing at the moment is that of human error in judgment. No man is infallible. Even under the best conditions men make mistakes. Even under the best conditions witnesses make mistakes. It is a matter of public record that under stress crimes are particularly odious. Frequently, the cards seemed to be stacked against a fair trial for the accused. The point I want to make is that there is such a thing as human error. Where prejudice has already been created owing to the circumstances of the crime, or to the external factors of publicity, emotion and stress, this prejudice greatly adds to the possibility of error in judgment. Once a person is executed, he is dead and there is no appeal.

My third reason is based on an ethical objection. The state may not take what it cannot give. The state cannot give life, and therefore it should not take life. There is a point at which the omnipotence of the state should end.

The state, of course, has a duty to society. I say that the state fulfils that duty when it withdraws convicted criminals from society. When a person is incarcerated or "sent up" for life and kept there, the state accomplishes at least three things: first, the convicted criminal is punished; secondly, society is protected from the danger of that criminal; and, thirdly, the state takes out of our society those persons who fall foul of the law.

When we attempt to outlaw war we are attempting to do the same thing in the international field that this bill seeks to do in the national field. We are attempting to go beyond

the level of punitive punishment, for I maintain that punitive punishment is the oldest, most primitive form of justice.

Honourable senators, I shall support the bill.

On motion of Senator Deschatelets, debate adjourned.

OLYMPIC GAMES

FLAME CEREMONY ON PARLIAMENT HILL

Senator Langlois: Honourable senators, this afternoon, between two o'clock and three o'clock, the Olympic Flame ceremony will take place in front of the Parliament Buildings.

To enable honourable senators to attend, I move, seconded by Senator Perrault, that the Senate do now adjourn to reassemble at the call of the bell at approximately 3.30 this afternoon, at which time we will resume the present debate.

Motion agreed to.

The Senate adjourned until 3.30 p.m.

At 3.30 p.m. the sitting was resumed.

CRIMINAL LAW AMENDMENT BILL (NO. 2), 1976

SECOND READING—DEBATE CONTINUED

The Senate resumed from earlier this day the debate on the motion of Senator Lang for the second reading of Bill C-84, to amend the Criminal Code in relation to the punishment for murder and certain other serious offences.

[*Translation*]

Hon. Jean-Paul Deschatelets: Honourable senators, I want first to commend the sponsor of this bill, Senator Lang, for having introduced this bill soberly, clearly and briefly. This debate is proceeding, I hope you will agree with me, in an exemplary manner. I think Senator Lang must be commended for having given this tone to the debate.

Honourable senators, I must admit that before the introduction of Bill C-84 I did not know exactly whether I should be in favour of the abolition or the retention of capital punishment. At times, after reading about loathsome, premeditated crimes, I fell asleep at night as a retentionist and woke up the next morning as an abolitionist. This shows that I am going to give you my opinion dispassionately.

I have read this bill several times as well as the main speeches delivered in the other place. I have come to the conclusion that I shall vote for the bill. I shall explain briefly the motives which led to my decision.

Bill C-84 constitutes a definite improvement over the present situation. To my mind, it puts an end to a major imbroglio. We all agree that the administration of justice, since 1960, has been chaotic and inconsistent with regard to major crimes, resulting in its almost complete weakening throughout Canada especially as a result of a policy of easy bail for major crimes, and systematic commutations of death penalties. We have therefore witnessed what I would call a travesty of justice, in which criminals were condemned to death, with all the ceremonial stipulated under the law, while we were all aware that the law was not taking its normal course and that the death penalty would be commuted. That, to my mind, had unfortunate effects on the public who witnessed, powerless, a deterioration of law enforcement with regard to criminals. That, I feel, is a very serious matter. As I said a while ago, the public did not understand why, for several years, bail was readily granted to criminals accused of the most heinous crimes, thus reflecting in some measure on the judges, the officials and the civil servants responsible for enforcing the law.

That situation could not last any longer. One of the greater merits of Bill C-84, to my way of thinking, is precisely that it offers at long last a new and consistent judicial system which provides, in the case of criminals found guilty of premeditated or unpremeditated murder, long prison terms before they may hope to get a hearing before a court and jury with a view to being paroled. That then, I feel, is one of the deterrents provided in this bill, namely, a long and compulsory prison term to replace the deterrent of the death penalty which, in fact, was no deterrent at all since the sentence was not carried out. This, I submit, is a positive aspect of Bill C-84.

This morning, my good friend, Senator Beaubien, put forward an interesting argument to the effect that a senator must reflect public opinion through his vote. I suppose he had in mind the opinion of the districts we all represent. I wonder, however, whether we are really sure today that 78 per cent of the public is in favour of capital punishment, I doubt it, and here is why. Of the various Gallup polls conducted on capital punishment, I think the majority were held before the introduction of Bill C-84. I consider the public response in favour of capital punishment as a statement of dissatisfaction, of deep concern, if not of revolt following the numerous commutations of sentences, with bail too easily granted for major crimes, with the result that policemen after some years had to deal again with criminals on parole who should have been serving long prison terms.

Personally, I am convinced, either rightly or wrongly, that the public requires in the first place that the person convicted of first or second degree murder should be properly put away and serve the greater part of his sentence. Such was not the case yesterday, but I suggest it will be starting tomorrow if we do pass this bill.

Before I close my remarks, I would like to bring the following suggestion to my honourable colleagues' attention: were this bill to be defeated on second reading, I have every reason to believe—and this is a personal opinion—that sentences to hang, or most of them, would continue to be commuted by royal prerogative of the cabinet, and we have no control whatsoever over that prerogative.

I also want to touch briefly on another point, which we should not ignore: we are, of course, living in a time when certain social phenomena are beyond us—I mean those of my generation. We are facing situations the rationale of which escapes us. Those who have been interested in the administration of justice during the past five or ten years must have noticed a new phenomenon in connection with

trials by jury. Those of my honourable colleagues who are lawyers and who keep informed about trials held recently—I must say that I am not aware of the situation in other provinces, but I know the problem that exists in Quebec—have been faced with this new situation: for one reason or another, juries today refuse to assume their responsibilities in the face of the evidence presented in court, with the result that it is extremely difficult to get a conviction in a trial by jury. You are probably aware that the Quebec Bar Association and the Canadian Bar Association are now reviewing this matter, prior to a possible review of trial by jury, and I think it is something we must keep in mind.

There would be several other aspects to be considered. In my view the greatest merit of this legislation is to put an end to an inconsistent and even ridiculous situation. This is why, in my opinion, Bill C-84, however imperfect it may be, will bring about a tremendous improvement, and I feel that when the clauses of this bill have been properly explained to the public, the public will be, up to a point, satisfied and reassured about the confused situation we have been faced with for years.

Therefore, I intend to support this bill.

[*English*]

● (1540)

Hon. Lionel Choquette: Honourable senators, I had not intended to speak on this important question, as I have spoken to it on several previous occasions. However, after hearing some of the retentionists' speeches, which were so well delivered today by eminent senators, I have decided not to remain silent.

I would like, at the outset, to say that I have always been a retentionist, with the exception of a few years ago when you will recall that my good friend Senator McIlraith introduced a bill, which I thought was useless, to retain the death penalty in cases of the murder of prison guards and police officers while on duty. I said then that we were perpetuating a farce, since we knew that there had not been an execution for murder since 1962 and that we should then go all out to abolish capital punishment once and for all. Now we have a government bill before us which should put an end to further discussion as to whether this country should abolish the death penalty for murder.

I would like at the outset to inform you that I have been practising law in this city for approximately 44 years, 25 of which were spent in criminal law while defending criminals. I have learnt to know their mentality and what we can do with them by way of reforming them. I am convinced that there are some who are no better than wild animals and are just waiting to get out of prison, by evasion or other methods, to again kill their fellow human beings. I would therefore like to see written unequivocally in our Criminal Code a warning which would be very simple and would read like this: "If you kill premeditatedly, cold bloodedly, and wilfully a human being, you shall die."

Such an unequivocal statement would be a warning to would-be killers, and no one could ever convince me that such a statement would not be a deterrent.

As a matter of fact, as we were told by several speakers who preceded me, there are no specific figures that can be advanced or enumerated to show that the death penalty is not a deterrent. Senator Robichaud gave us a flagrant example of two men facing each other, each armed with a gun, and the criminal asking the policeman, "If I were to shoot you, would I die?" The policeman replied, "Yes, you would," and the criminal dropped his gun. That, I think, is one of the most convincing arguments given as to the death penalty's being a deterrent.

The death penalty does not necessarily have to be inflicted by hanging. That is another argument which the abolitionists use all the time—that it is archaic, that it is cruel, and that sometimes it is slow. We do not have to use the hanging method all the time. We could use euthanasia, which is permitted in this case since the criminal would be condemned to death; we could use the method used in some states in the United States and accept the electric chair; we could give the killer an injection one night during his sleep. He would not know when or how he died, yet he would know that he was going to die because he would have been told beforehand that he was going to die at some time as a punishment for his crime.

Some honourable senators this morning quoted from some of the speeches they had delivered in this house, and far be it from me to saddle you with long excerpts of the speech on which I worked pretty hard to deliver in this chamber on December 12, 1967. At that time I quoted something that was most vivid, to show that the death penalty is a deterrent, and to show also the treatment to which some of our prison guards are subjected.

If we abolish the death penalty, I predict, honourable senators—and I am not given to predictions—that before long you will not be able to obtain the services of competent guards to look after our prisons.

Some Hon. Senators: Hear, hear.

Senator Choquette: Last summer a taxi driver drove my wife and me to our cottage. The taxi driver inquired about some of my children. I asked, "Do you know them?" He said, "I went to lower school with them." I inquired, "What do you do now?"and he replied, "Just now I am driving a taxi, but before that I tried to be a prison guard. I did it for three months, but I got out of there quick because some prisoners were going to kill me. Those thugs were preparing to use razor blades to get rid of a guard they thought was unpopular and who had refused them favours. I got out of there. In some of those prisons you have murderers who are awaiting the result of a criminal appeal and they will kill for no reason at all, knowing full well that if they kill a guard they will not be hanged or executed."

Here is what I said at page 603 of the *Debates of the Senate* for 1967. I recall that Senator Cameron referred to it as "horrendous," and I think there are not 10 senators in this chamber today who were present at that time when I read this into the record. I said:

> Recently, honourable senators, I read a book written by . . . Nathan F. Leopold, who spent 45 years in the penitentiary and who was a brilliant man and who expressed several opinions on the death penalty, on our prisons and the type of punishment people should have. I would like you to bear with me just to hear a description of a vicious attack perpetrated by five or six "cons" or inmates against prison guards. I quote

this for two reasons: to show that the lives of prison guards are in jeopardy every minute they work in the prison; and to show you that the death penalty is and was a deterrent in this particular instance.

● (1550)

This is what the author had to say:

It was the regular keeper's day off and the relief keeper, only recently employed, while walking the gallery noticed five men in one cell. Instead of ordering the men who didn't belong there back to their own cells or reporting the matter to Mr. Stanton, the cell-house keeper, who would have handled the situation with a minimum of disturbance, the keeper dashed out of the cell house and returned with a captain. Together they went back up to the cell on Four Gallery and ordered the men out. They came out, all right, but they came out fighting. Two men grabbed the keeper and began beating him; the other three turned their attention to the captain. The latter was armed with a lead-tipped cane, which the prisoners wrested from him and used to beat him. Seeing the melee, two fellows who worked in the cell house, and who were friends of the five cons involved in the battle, dashed up the stairs and joined in.

The men had the keeper and the captain separated now. The captain was down on the gallery, and four guys were dancing up and down on his body. Three different times they lifted him over the gallery, as if to drop him to the flag 35 feet below. Most of the men in the cell house were out of their cells by now, lining the gallery and watching the carnage. Each time the men would lift the captain over the railing a shout would go up: "Don't drop him. Don't burn for the s.o.b.!" and each time they would lift him back and start kicking and beating him again.

The keeper, a small man, had been beaten so badly that his face looked like a pound and a half of raw hamburger. How he kept his feet I will never know. Now two of the cons pinioned his arms behind him and a third backed off a few feet, took a running start and hit him as hard as he could in the face. Back for a running start, and this time a kick in the groin. Face, groin, face, groin, blow, kick, blow, kick—he kept it up for minutes. I have never seen a man absorb half that much punishment—no, not a quarter. It was frightful. Eventually the three cons brought the keeper around the gallery to where the captain lay on the concrete. They propped him up against one of the metal plates separating two cells, and each of the seven cons brought up a blow from the floor, squarely in his face. His knees buckled, but still he didn't go down.

Then I commented:

That, honourable senators, is the type of treatment that some of the guards are subjected to, or can receive, every working hour of their lives in a prison where dangerous characters, cons, hooligans, and murderers of this kind are being harboured.

Honourable senators, that is about the extent of my intervention in this debate. I appeal to honourable senators to kill this bill, and I say to you that in so doing we would be carrying out the wishes of the majority of the Canadian people. This body would gain in stature were we to kill Bill C-84.

Hon. Joan Neiman: Honourable senators, my views on capital punishment have already been recorded in this chamber. My first speech on the subject was in support of the bill which extended the present law in respect of capital punishment for a further period of five years. Therefore, my intervention will be brief. I merely wish to reaffirm my beliefs, and to state that I consider it an honour to be a member of this chamber, and associated with a government which may shortly lead us one more painful step towards a better civilization.

I do not delude myself that the passage of this bill will ensure that there will be no change in the incidence of violence, much less a lessening of it, except only to the extent that the government will no longer be a participant. We shall only have the simple expedient of ending a couple of lives each year, as an example and deterrent to other would-be killers, taken away from us.

Those of us who wish to improve the quality of life, as Senator Hicks mentioned again this morning, will have a much more difficult challenge before us. We shall have to work much harder to identify the causes of violent and anti-social behaviour. As we pinpoint them, we, as concerned citizens, have to urge, even demand, that all levels of government, our schools from kindergarten on, our police forces and custodial forces, our learned law professors, criminologists, psychologists, psychiatrists, and even legislators, all of whom study the subject and write articles about it, will have to work together in a concerted effort to find solutions.

It is not going to be easy. It is much less demanding on us to sit back and read about crime in the newspapers, to say that the police should be given more and wider powers of arrest, to say that prison sentences should be longer, that we should execute a few killers, by whatever means, and then we are bound eventually to achieve a greater respect for, and a greater observance of, law and order. It simply does not work that way. It never has worked that way.

Senator McGrand recently introduced a motion here inviting the Senate to set up a committee to study the causes of crime. I share both his interest and his concern, although I do not happen to agree with the particular method he had in mind, for reasons that are not relevant to this discussion. I do believe, however, that the federal legislators should and do have a very significant role to play, both here and in their individual capacity as citizens, in trying to improve our methods of preventing crime, rather than simply passing laws which create new crimes and then imposing penalties to counteract them.

I do not know whether many honourable senators are aware that a series of articles has been commenced in one of the Toronto newspapers, a tabloid called the Toronto *Sun*, about a man who has just been convicted of being a dangerous sexual offender at the age of 25, after he had committed some really shocking murders. I have only had the opportunity to read the first two articles. I think there will be twelve. I would commend them to all honourable senators. I cannot vouch for the accuracy of the articles, or that all the facts are exactly as the writer reports them to be. But even after having read only two of them, I believe

they show clearly that the causes of crime start very early in a child's life; that a child is conditioned by his parents, by the way he is treated in society, how he is treated in school. This man is now incarcerated, probably for the rest of his life—and he should be, according to all the evidence. However, I think this is the type of history that we have to look at and ask, "Where did we go wrong? Where along the way of a boy such as John Graham was did we go wrong? Where could we have helped him? Where today can we help other people?" If we study some of the case histories—and we have plenty of examples in our prisons to study—perhaps then we will be able to come up with more realistic and humane ways of treating criminals and preventing crime.

● (1600)

Many of the people who commit the most heinous crimes which cause revulsion in all of us are not, and have not been, liable to the death penalty. Their crimes and their trials generate the most lurid newspaper stories, which in turn create a demand in the public for capital punishment and greater police vigilance and greater crime prevention measures, but these are the very people who are not, and cannot be, sentenced to death under our present laws and, indeed, who could not be under our previous laws. We simply do not believe in executing a person who is insane or who was mentally ill at the time he killed.

Moreover, have you stopped to think about how many times we have executed the other kind of murderer to which Senator Choquette referred a few moments ago, the kind we consider the most reprehensible, the murderer who deliberately plans his crime? I am sure our police forces know of several people who are assassins for hire, but how many have been prosecuted for their alleged crimes? I do not think it has been for lack of trying to catch them, as far as the police are concerned, but simply because professional criminals have so many more resources at their disposal to protect themselves from their just punishment.

As has been said in this chamber more than once before, it is all too often the poor and disadvantaged who suffer, those who do not have the kind of support and assistance—and perhaps never did throughout their lives—that we would all want for ourselves and for our children, if we or they were to make mistakes. Those stumblebums of society—they are the ones who become the focal point of our anger and retribution. Very often they are the ones who pay the ultimate penalty so that the rest of us can believe, for a few days, that things will surely then get better.

I tell you that justice today in Canada is not as even-handed as we would all want it to be. A good example of the disparities in the treatment of various accused, beginning with the laying of a charge which inevitably leads to inequities in sentencing and to bitterness in the person most adversely affected, and to disrespect for our judicial system, has been brought to light in a couple of recent cases very close to where I live in Brampton. Both were charges of trafficking in drugs.

The first one received a fair amount of publicity. It involved a 23-year old American woman, Miss Ford, who was arrested and charged with smuggling. She should have been charged with trafficking but the charge was reduced, at the instance of the Crown, so that she, in effect, received a three-year sentence rather than the mandatory minimum seven-year sentence. The reason the Crown gave for reducing the charge was unusual family circumstances. Miss Ford's father is a vice-president of Amtrak, which happens to be the United States national railway passenger service. Her fiancé's father is a general in the United States army. Those were the reasons given for reducing the charge, and on which Miss Ford got a sentence of only three years.

A week later another young lady was charged with trafficking, and her counsel tried to use the same argument on her behalf. She is a young lady of almost the same age with a four-year-old child and no previous record, but because the Crown did not choose to place a lesser charge she was convicted of trafficking, and the judge sentenced her to seven years in prison. The judge said he was absolutely bound by the mandatory provisions of the Narcotic Control Act.

Now, that is a matter we know something about, because it was hoped that the bill I introduced in this chamber about a year ago would have changed some of the penalties for trafficking in hashish and marihuana. As a result of the fact that that bill has not cleared the House of Commons or received royal assent, judges today are bound by a law which is quite harsh and unreasonable. But the fact still remains that there is discretion in the Crown to change the charge, and that is where the inequities arise.

I should really like the Minister of Justice to explain to us, if he can, the reasons for making a difference in this particular case. If what is reported in the paper is entirely accurate, I really do not feel there is a ground for two sentences to be so widely differentiated.

You know as I do, honourable senators, that there can be vast differences in how apparently similar offences, even homicide, can be treated. Although I believe that most people in our justice system act as they do for the best of reasons and in the best of faith, I am also sure that more than one person has been charged with manslaughter rather than murder, or the other way round, either because he had a most persuasive lawyer representing him or because he had a less skilled lawyer or no lawyer at all to represent him at that crucial time. Even under the proposed legislation such a difference would mean a difference in punishment of ten to fifteen years, or perhaps even a lifetime. I am glad that it will not mean a life.

Our laws of morality and justice are not perfect—perhaps they never will be, and perhaps that is only as it should be. I would feel depressed if I thought that any of our laws, and particularly our moral laws, were immutable. I am sure that the Lord Justices of England, who decided that a ten-year-old boy must be put to death for the theft of a few pence to serve as a warning to other youngsters who might be tempted to commit the same crime, felt that they were acting from the most righteous moral principles. Today those principles seem to us unbelievable, almost unreal. We must keep examining and re-evaluating the moral principles and the laws by which we govern ourselves. If one method or course of action has not been the best for the greatest number of us, then we must have the courage to change our course, and take a few risks along the way, if we have to.

Of course, there is risk in abolishing capital punishment entirely, but surely there is a greater risk in refusing to

change when circumstances demand it, when the facts and events demonstrate that what we have been doing simply has failed to achieve the results we feel are essential to our way of life. If we refuse to act when we should, then we could all die; our civilization could die.

We are entitled to have misgivings when we embark on a new course, but I must say that the grim forebodings expressed by some honourable senators seem to be more fanciful than factual. I think that if we are too pessimistic in our attitudes we can only encourage uneasiness—an unwarranted uneasiness—in the public.

● (1610)

I know that statistics can be misleading, or unhelpful, at times, but facts remain facts. One fact is that the present bill provides for extremely long sentences, even lifetime sentences, for convicted murderers, and the periods after which they will be eligible for parole have been greatly extended. Another factor is that even under our present law the record for convicted murderers who have been let out on parole is extraordinarily good. Even those let out on temporary absence—and that sort of procedure has received a lot of adverse publicity because of certain unfortunate incidents that did not involve convicted murderers—have had an excellent record.

I would just like to read briefly from the Minutes of Proceedings of the Standing Committee on Justice and Legal Affairs of the other place for June 22, 1976, when one of the members of the committee was questioning the Solicitor General and his staff. At page 6967, in reply to a question as to the number of people who had committed crimes or misdemeanours while out on temporary absence, Mr. Therrien, the Commissioner of the Canadian Penitentiary Service, is reported as saying:

> I have the figures for 1974, Mr. Chairman, where 275 individual murderers were released on 2,703 temporary-absence permits. Two inmates were late in returning; two inmates did not come back, but were later recaptured.

The following exchange then occurred:

> AN HON. MEMBER: More than 2,000?
>
> MR. WOOLLIAMS: None of them defaulted?
>
> MR. THERRIEN: In 1974 there were four.

I stress that there were only four defaulters out of 2,703 temporary absences. That record, while not perfect, is just about as close to perfection as we could possibly expect.

Honourable senators, I know that we must be concerned about these matters, and that we are talking here only about the fate of convicted murderers. In spite of the statements that have been made to the effect that if we allow some of these murderers out on the street they will murder again, the fact is that this has not been the Canadian experience. Evidence was given by the Solicitor General at another hearing that, according to the best available data, the government knows of five murderers who were convicted of murder a second time.

Senator Asselin: It is too many.

Senator Neiman: Of course, it is too many. One killing is too many.

Senator Molson: That is hearsay evidence.

Senator Neiman: One of those five was out unlawfully, since he was not on parole at the time. Two others committed the first or second murder in the United States. That is all that the record shows. There are probably others that may not have been caught, but those are the best statistics available.

Another apprehension which has been expressed is that people who are in prison for a long period of time have nothing to lose by trying to escape, and killing a prison guard or other staff in the process. This again has not been the Canadian experience. I do not want to prolong this debate by reciting more figures, but I would be more than pleased to supply data along these lines to anyone who is interested.

I hope that honourable senators listened very carefully to Senator Argue's speech this morning, not only on the question of capital punishment but also on his view of the right and duty of the Senate to initiate legislation which it believes to be helpful to Canada. He was, of course, speaking specifically to the bill which he introduced in the Senate some time ago for the total abolition of the death penalty. I agree with him that we do ourselves a great disservice if we do not exercise the powers with which we are invested, and I have to admit that I was one of the delinquents who did not advance his bill, although I believed very strongly in it. My reason, and perhaps it was not a very good one, was that I believed this bill we are now considering was going to be introduced at any moment in the other house, and that it would probably serve little purpose to have the two bills dealt with simultaneously. Let me say, however, that I was speaking to one of our ministers, who has great interest in this bill, just a few days ago, and he mentioned that he wished the present bill had been introduced in the Senate in the first instance. I reminded him that we had one here, but it had not managed to get very far, a situation for which I, of course, must accept partial responsibility.

I do not believe it will be a sad day for Canada if Bill C-84 becomes law tomorrow, but it should be a sober reminder of our inability, so far, to make any real progress in the suppression of crime. It should also, above all, be a challenge to us to find new and better ways to eliminate violence in our society without doing violence ourselves.

I am very sorry that our late and beloved colleague, Senator Grattan O'Leary, is not with us. I can picture him standing very straight and proud, voting for this bill. I hope that his spirit will touch us all for a few minutes at about 11 o'clock tomorrow morning.

Hon. Edward M. Lawson: Honourable senators, I would like to make a few brief remarks about this piece of legislation.

As an independent member of this chamber I certainly intend to engage in a free vote tomorrow, uninfluenced by either side, and, with this end in view, one thing I attempted to do was to read as much as I could about the views of the abolitionists, because I want very badly to be persuaded to go in that direction. I also talked to as many people as I could to find out why they were so emotionally concerned, why there was this lack of confidence, why there was this feeling of insecurity and this great concern. Many of them said that they felt they had been betrayed when the government said no on the first occasion, and again on

the second occasion, when they said, "We want a further five years as a trial period, and we will only hang those who are killers of police officers and prison guards." They did not do this; indeed it appears that they had no intention of doing it at that time. As a consequence, there is a great lack of confidence in the leadership of this country with regard to what is really happening, and it is in that state of mind that people read about the kind of thing that happened in Vancouver last week. Someone out on parole, or a pass, or whatever it was, who had previously been convicted of a sexual crime, is now alleged to have murdered a nine-year-old girl. There was also the horrible killing we had not many months ago in Vancouver known as "the crossbow killing." In this case two men were hired for $500 to carry out the assignment of killing a young boy of 17 years of age because he had squealed on someone; he had given information on them to the police. The two men concerned took him forcibly from his home after tricking him, took him down by the river, and on the way one of them came across a crossbow. They stripped him naked and thought it would be a different method of execution if they were to kill him with the crossbow. They were unaware, after they had completed this horrible act, that their phones were being tapped because they were suspected of being involved in drug crimes. While their phones were being tapped they were exchanging remarks to the effect of, "Wasn't that something, the way we killed him?" About how long he had lasted, about the way they had to shoot him and how many times they had to shoot him before he passed out—all for their $500. I read about these horrible things and I try to make a balanced judgment. When people responded the way they did, I asked, "What is it you really want? Is it revenge? Is it vengeance?" And the view seemed to be, "No, we want some system of law and order; we want some enforcement of law and order; and we want justice tempered with mercy." They could understand, when the emotion passed, that mercy was appropriate for some sick human being who engaged repeatedly in sex crimes, but they could not find any mercy in their hearts, nor can I, nor could they understand why in God's name we would keep alive the crossbow killers or people like that. They are people to whom life is so meaningless that for $500 they would go "waste"—in the jargon of the underworld—a 17-year-old boy.

● (1620)

Senator Flynn: That is the law at the present time. They were not condemned to death for that because the victim was not a prison guard or police officer.

Senator Lawson: I understand that, and that is the other concern I have. I have had a lot of association, as I have said before, with the police forces in British Columbia, and particularly in Vancouver. The other example which illustrates my concern involves, really, a comedy of errors in connection with the classic bank robbery we had last year in British Columbia. A banker and some of his staff arrived at the bank at 8.30 in the morning, and as they knocked on the door and went in they were followed by a couple of robbers. Immediately the telephone rang because there was an accomplice of the robbers in a telephone booth across the street. At 9 o'clock the manager arrived, accompanied by a couple of members of the staff, and as they were walking along they looked in the window and one of the staff members said, "Well, something doesn't look right because Mary Jane isn't smiling and she is always smiling," or words to that effect, and so they went to a telephone booth and telephoned the police. Five police cars arrived with horns blowing and bells ringing, and so on, whereupon the get-away car arrived at the front of the bank and there was an exchange of gunfire, the bandits outside jumped into the get-away car and drove off firing with automatic rifles. All the police cars gave chase, leaving the bank unattended with the robbers inside. Had they not panicked, the robbers could have taken a shopping basket, filled it with money and walked off down the street, but they did panic, attempted to drag off the assistant manager who managed to escape, and roared off at 80 miles an hour.

However, the whole incident became more involved. In the pursuit the burglars apparently knocked out four or five police cars. At one point an astute police officer commandeered a public bus and with it and his police car blockaded the road. He then set himself up with a shotgun, because he knew they had to pass that way. His plan worked perfectly. He lifted the shotgun, fired and missed—not only the robbers but the police car! Another police officer—and this is a true story, it was reported in the Vancouver *Sun*, and I read the police record on it—knew that they had to pass over a certain very narrow bridge, so he took his police car and parked it across the road so that they could not get by. He thereupon went under the bridge, where he sat with his rifle, and he was greatly surprised when they drove right on by, because one of the other policeman, who was on foot because his police car had been knocked out, saw this undamaged police car, climbed in and drove off.

As it turned out, when the second car was racing away a salesman, who was offended by somebody passing on the wrong side of the road at 80 miles an hour, waved his fist at them, and gave chase, but thank God they didn't blow his head off. He soon came to the conclusion that he was too busy to chase them any longer, and he decided to go to work. On the way he heard on his car radio that there was a robbery in progress, so he called the police, who managed to pick up the car because of the licence number, and the police chased them into a wooded area, brought in a helicopter and police dogs—and promptly lost them.

This great comedy of errors continued, and the following morning it was only by a fluke that two policemen in a police car—because all the other police cars were out of commission—spotted two men wet to the waist, because they had been walking in the bush. The officers ordered them to lie down on the ground, only to find that they had loaded guns and a stick of dynamite and so on, so in this manner they apprehended two of these people.

While this comedy of errors was going on, the report was that 76 rounds were fired in the chase and either four or five police cars were wiped out. Mercifully, nobody was killed. One policeman was cut across the thighs when the robbers pulled alongside and shot through the police car window; another was shot through the shoulder; and the headrest and the windshield were knocked out of the police car.

The reason I raise this comedy of errors is that in talking with the police—and as late as yesterday this was reported

in one of the newspapers—it was indicated by police sergeants that more of this is going to happen and that policemen will not check or chase but will shoot. As Senator Asselin said this morning, sidewalk justice appears to be going to develop as a result of this. So, in dealing with the legislation, we have to concern ourselves with the total impact of what is going to happen.

Senator Neiman mentioned changing the psychology of the police, their training and so on. For the only training they are going to need we should hire John Wayne to teach policemen to be quick drawers because that is the way things are going to be. That is the concern expressed by many policemen and senior police officers. I suggest that somebody responsible should be suggesting to police forces and police officers that they cool that kind of talk about the shoot-outs that are going to take place, because I am concerned that for every action there is a reaction and for every quick trigger-fingered policeman there is going to be a quick trigger-fingered burglar or bandit with less concern or less care.

In talking to the people I have talked to I have asked, "What about the peace and security bill?" And they have replied, "We don't want a peace and security bill; we want peace of mind." They want an assurance that something is going to be done and that this situation is going to be dealt with.

The other concern is the question of deterrent. Is capital punishment a deterrent? One thing is certain, if we accept the statistics regarding second-time murderers, the death penalty would have been a deterrent and at least five good citizens would have continued to enjoy a normal life.

In British Columbia we had an experience that perhaps reinforces the point made by Senator Manning this morning when he talked about parking tickets and speeding tickets. I know, as do many of us from British Columbia, that for a period of time driving habits in British Columbia were very, very bad. There was no concern about the cost because it was paid for in the insurance, and there was no concern about the deductible. You were risking your life at every intersection; you had people running lights, crashing automobiles and so on. I am not making a case for the change of government and the change of policy which resulted in the 300 per cent increase in premiums or the minimum deductible of $250, but it was mind-boggling to see a whole community, a whole province change its driving habits overnight. The tripling of the premium and the increase in the deductible virtually changed people's driving habits overnight, so cost was a deterrent. Thus I find myself leaning to the view of Senator Manning that this type of penalty for these kinds of crimes would be a deterrent.

I think there cannot just be a great sigh of relief that it has passed the other house or that it may pass this house, and that that is the end of the matter, because I really think that it is only the beginning and that we have to concern ourselves with the impact of the legislation. I am impressed by the view expressed that we here do not have the same role as the members of the other place. We have the responsibility to express the views of the public, and the majority view seems to be for the retention of capital punishment. We also have to give serious consideration to the peace of mind—not just peace and security, but the peace of mind of the ordinary citizen who desperately wants some strong, decisive, positive leadership.

Having given consideration to all these matters, honourable senators, I am forced to the conclusion that, exercising my independent role in this chamber and my independent judgment, I am going to vote against the bill.

Some Hon. Senators: Hear, hear.

● (1630)

[*Translation*]

Senator Flynn: Honourable senators, I will vote for Bill C-84 on two general grounds, the first being that I am fundamentally an abolitionist; the second, which is of minor importance, is that I want to put an end to a situation which has lasted for almost 14 years, surely since 1967, and which I consider unacceptable, even awful.

I said that in principle I am an abolitionist. I am without doubt, as is Senator Deschatelets, distressed at certain times. There are some cases where I would not be unhappy if the death penalty was carried out; but where do we draw the line? I do not think we can. It is much too difficult.

I am for the abolition of the death penalty because it is final and irrevocable and because rehabilitation, where it is possible, becomes inapplicable. It is not always easy to determine that when the sentence is passed—and a miscarriage of justice cannot be corrected. I know that such cases are infrequent, but it can happen, and I do not want to take a chance. As far as rehabilitation is concerned, I agree that it seems sometimes most unlikely to be successful but, just in case, I do not want to take a chance.

On the other hand, I will say this: I respect very much the views of the retentionists. It was not easy for me to reach those conclusions and to support this bill. I respect the views of the retentionists, because I have often noted that the retentionists and the abolitionists often use the same arguments to reach different conclusions. The close vote in the House of Commons shows that the question is not easy but extremely complicated.

For years many people in responsible positions, and especially our present Prime Minister and Solicitor General, not only have been advocating the abolition of capital punishment but have refused to enforce the existing legislation which provides for it; in spite of all that, in spite of the fact that no criminal condemned to death has been executed over the past 14 years, there was the close contest in the House of Commons where the vote went 133 for abolition, and 125 against on second reading, a majority of 8; 131 for and 124 against on third reading, a majority of 7. A change of 4 votes in either case and the bill would have been defeated.

Therefore, nobody can say for sure whether it is the abolitionist or the retentionist who is right. The results obtained in the House of Commons are far from convincing. However, the bill is now before us, and unless my assessment of the way honourable senators will vote is all wrong, I think that capital punishment will be removed from the Criminal Code; it will still be applied, however, under the National Defence Act.

I have explained why I support this bill: I am an abolitionist. Another reason is that I do not want the situation which has prevailed for the past 14 years, and especially since 1967, to continue. I consider that the government's

approach to the problem of capital punishment is highly objectionable—even illegal. Indeed, the government has acted illegally.

Honourable senators, surely you remember that the Criminal Code was amended in 1960 to create a distinction between capital and non-capital murder.

I think that there was some logic behind this distinction—capital murder and non-capital or unpremeditated murder. Premeditated murder called for the death penalty, by hanging, while the other kinds called for life imprisonment.

The last execution in Canada was in 1962, some two or three years after the passing of this amendment to the Criminal Code. From 1962 to this date, even though the Criminal Code provided for the death penalty in the case of capital murder, no murderer has been executed, despite the sentences passed by the courts, despite in fact, the mandatory sentence that the judge who presided at the trial was more or less forced to pass when the accused was convicted of capital murder.

In 1967 we were presented with a bill which asked for a five-year experiment on a new formula; capital and non-capital murder no longer existed. The death penalty applied only in the case of the murder of policemen and prison guards. We were told: "You will try this for five years." At that time, because I considered that the bill was a first step towards abolition of the death penalty and that this was the implicit if not explicit principle underlying the bill, I supported it. But there again the government systematically refused to apply the law, to allow justice to take its course, by commuting all death sentences. I challenge anyone to come forward and tell me that the government acted selectively. The Prime Minister said: "We consider each case on its own merits." To this I replied: "This is not true; you are misleading the public because it is not true that you can commute all of the sentences and say that you are resorting to the commutation prerogatives in a selective way".

In 1972, after the so-called trial period, the government had the nerve to introduce a bill providing for a five-year extension of a trial period which was never applied. He said: "We shall retain the death penalty for the murder of prison guards and police officers. There shall be a five-year extension to this trial period". Could there be any worse insult to Parliament or to the population, when the legislation that we had to approve in 1967 was not applied even once? At that time I voted against the bill in the hope that once we were back to the old system the government would have the guts to bring forward a clear and specific measure that would truly reflect its policy and intentions. We have had to wait until now. It has been said that the Prime Minister has shown courage and leadership in this case. Well, that was long-term courage, a slow-moving courage. That was neither vigourous nor quick-acting courage. He waited until now. He introduced this bill, after having endorsed the Solicitor General, who told us brutally on many occasions: "As far as I am concerned, I shall not apply the law and all sentences will be commuted."

That is precisely the stand taken by the Solicitor General of Canada. Did he want to convince the people that the death penalty should be abolished? Perhaps. But the fact remains that if such were the case he was going against the law. The government was giving a bad example by refusing to enforce an act which was the law of the land.

It was time a bill was brought before Parliament to legalize the present situation. But the way the government handled its bill did not command respect. I do not share the admiration of Senator Argue or Senator Robichaud for the leadership of the Right Hon. Mr. Trudeau in the matter.

I read the speech he made in the House of Commons and, frankly, I found it in part almost insulting, insulting for the abolitionists whose views I respect. I quote from page 14500—

Senator Langlois: The retentionists.

Senator Flynn: The retentionists, yes. I would have made the correction on the blues, I trust.

Senator Langlois: Although I am one of them.

Senator Flynn: On page 14500, on June 15, 1976. I quote the English version. That part of his speech he delivered in English actually.

● (1640)

[*English*]

> At this moment, eleven men are being held in Canadian prisons under sentence of death for the murder of policemen or prison officials. Some have exhausted their rights of appeal. Others have not. Therefore, while it is impossible to pre-judge how cabinet will treat any individual case when the time comes to decide whether to invoke the royal prerogative—

That is rather amusing, in view of the record of the government.

> —of mercy and commute a death sentence to life imprisonment, it is inevitable that the defeat of this bill would eventually place the hangman's noose around some person's neck. To make that quite clear: if this bill is defeated, some people will certainly hang. While members are free to vote as they wish, those who vote against the bill, for whatever reason, cannot escape their personal share of responsibility for the hangings which will take place if the bill is defeated.

If I were an abolitionist, I certainly would not let Mr. Trudeau get away with that.

[*Translation*]

In any event, I wanted to emphasize the inconsistency of Mr. Trudeau's argument. When a man has systematically refused to enforce the existing law and then tells us: "If you retain the existing law, if this bill is defeated, I shall enforce the law and you will be responsible for it," this is quite wrong. As far as I am concerned, I find this attitude an insult to the intelligence of retentionists and Parliament. Besides, I find that Mr. Trudeau in his speech exerted very strong pressure on members of his party to bring them round to his own point of view and have them vote for the bill.

I am an abolitionist, but I don't like to have this bill referred to us after such a close vote, after events such as those I referred to, after a determined policy on the part of the government not to enforce the law and not to allow capital punishment to be carried out. I don't like to have it referred to us after such a close vote which does not

convince us that the House of Commons is in favour of the abolition of capital punishment.

Further, I readily accept Mr. Allmand's statement reported to us by the government leader. Yet, considering Mr. Allmand's previous statements that he would not allow capital punishment to be carried out, what he said yesterday afternoon after the bill passed third reading in the House of Commons, that he had already commuted the sentences, is quite consistent with the position he has always taken. The fact that he also took for granted that the Senate would pass this bill without any difficulty is very much in keeping with his views and previous conduct.

Senator Denis: Otherwise, he would resign.

Senator Flynn: Of course, as far as he is concerned, he has been spared capital punishment by the passage of the bill. He has, as it were, saved his neck.

Having said that, this bill will pass, I am sure. But, I hope the government will now seek an alternative to capital punishment. I have already said that I did not think that capital punishment was a deterrent. In this regard I changed my mind quite a bit. This was my thinking: if the death penalty is not a deterrent, imprisonment is certainly not one either. But, on the other hand, if the death penalty is a barbaric punishment, life imprisonment is just as barbaric.

Senator Bourget: Even more.

Senator Flynn: Possibly, much more. What is the solution then? I say that the government, Parliament, will have to direct its efforts towards that purpose. Let us abolish capital punishment, but let us consider the problem deriving from the crime of murder. Murderers have to be punished, just like anyone else, and if the death penalty is not a deterrent, well, let us find something which is going to be a deterrent. We should have a deterrent penalty for murder, just as for other crimes. On the other hand, I would not like somebody to tell me tomorrow: "Well, you have abolished the death penalty because it was too cruel. You will have now to abolish all punishments, because they are too cruel." Then, I think the efforts of the government, of Parliament, should be directed towards correction.

So I shall vote for the bill with the reservations I have expressed, but I shall tell you one thing: if the bill had the effect of exempting from capital punishment a government which is as inept in this regard as this government, I think I would vote against it.

Senator Bourget: That is a good speech for retention you just made.

Hon. Azellus Denis: Honourable senators, just a word on the subject. I know that all of us are opposed to murder, that all of us are in favour of the protection of society. This is a very serious problem, a matter of life or death for criminals or the accused, and for the victims. I maintain quite humbly or candidly that we are not all qualified to decide upon such important or serious things without having the advice of a specialist.

I trust neither the opinion of Senator Deschatelets nor that of Senator Denis. And in such cases, when it is a matter of life or death, it is our duty to consult those who one way or another can enlighten us as a result of their studies, their experience, their occupation, their trade or the contacts they had with people who could tell us or determine whether the death penalty is a deterrent. In addition, if the death penalty were a deterrent, and if it were sufficient, as Senator Bourget said, to save the life of an innocent, I would be in favour of the death penalty. The Leader of the Opposition said that judicial errors are very rare. Of course they are because overwhelming evidence is required to convict somebody, for that person may appeal before all justice courts, even the Supreme Court. He also has some protection, following the arguments put forward by lawyers, etc. In Canada, there are no such errors on record. But there were some legislative errors. The Solicitor General himself admitted that four innocent Canadians were killed after the release of convicted murderers sentenced to death. Therefore, if the same thing were to happen again in ten years, if we were to release another murderer, I wonder if we would not be a little responsible for the death of an innocent man slain by a previously convicted murderer out on parole.

So how do we get the advice and consultations that Senators Deschatelets or Denis say we should have before deciding upon such a crucial issue? I have here the report produced by the joint committee of the Senate and the House of Commons in 1956, which committee conducted a very sound study on that matter. Witnesses were heard from everywhere in Canada. All provincial attorneys general, except Saskatchewan's, and police forces said that we must retain capital punishment. There was even an article included in the report that said that we must consider the will of the majority of Canadians who stated at that time, as they do today, that capital punishment should be retained.

There are people who have conducted studies, people who should be consulted before we reach such an important decision.

Our police forces are unanimously in favour of retention. They are always with criminals, they live with them, discuss with them and follow them. There are also the prison guards. I wonder if Senator Deschatelets has a very sound knowledge of the revision process. I wonder why he did not consult a padre, for instance. He is the one who hears criminals in confession and the honourable senator would have some indication whether capital punishment has a deterrent effect.

Therefore, not being experts, we have consulted those who study this question and approached those who are in a position to know the problem and say that we must retain capital punishment. I agree with them and I will vote against this bill.

● (1650)

[*English*]

Hon. A. Hamilton McDonald: Honourable senators, I am hesitant to take part in this debate for one reason, and one reason only, that being that it will be impossible for me to be here tomorrow when the vote is taken. However, if I were here I would vote against this bill.

Some Hon. Senators: Hear, hear.

Senator McDonald: I came to the conclusion, not in the last few months or few years but many years ago, that there is a small segment of our society who cannot be

rehabilitated. I think that is true of societies around the world. Bearing in mind the atrocities committed by some people, the hope of rehabilitating the perpetrators of such atrocities went out the window long ago. I have in mind the case brought to our attention by Senator Lawson in what was referred to as the Santa Claus murders in Montreal. I am shocked when I think that the lives of individuals capable of committing such crimes have been spared.

I would like to relate an incident that took place in my own community just a few weeks ago. Seven or eight young men escaped from a penal institution in Manitoba, and two of them showed up in my home town about 2.30 in the morning and went to the home of a former employee of mine. They burst into the house when the door was answered. Brandishing a baseball bat, they demanded money and an automobile. They were persuaded to take a motorcycle instead, and after beating hell out of the husband and wife with the baseball bat they took off on the motorcycle with the money. They drove a few miles out of town to a farm property operated by a young man and his wife. The young man's parents lived in the old farm house, and the young farmer lived with his wife and their children in a new house on the property. The two escapees arrived at this homestead at about 3.30 in the morning, and the young farmer noticed a light in his parents' home, which he found to be unusual at this hour. So he grabbed an old rifle in the kitchen and walked over to his parents' home, where he was shot with his own rifle. His 78-year old mother had been raped.

I do not believe it is possible for people of that mentality to be rehabilitated. I am sorry to say this, but I believe there is a small segment in our society who are not capable of being rehabilitated. I believe that in all justice, both to them and to society in general, they are better removed from society. Whether they are removed by hanging or by some other method, it matters not. I sometimes think that hanging is too good for some of the people I have in mind.

● (1700)

It has been said in this debate that the state cannot create life, so it ought not to take life away. I ask you, then: Why have we got young men at this very moment standing in Montreal armed to the teeth to defend the athletes of the world and the general public? I presume the nation expects those young men to use those rifles if need be. If the state has not the right to take a life, why do we have members of the armed forces? Why are we now considering the purchase of a long-range patrol aircraft whose job it will be to search and to kill? Why are we now in the process of purchasing 128 Leopard tanks? What is the purpose of those tanks? It is hoped that their presence will be a deterrent to war. But if war breaks out the purpose of those tanks will be to kill. The main purpose of the armed forces is not to fight a war. Their main purpose is to prevent a war—and thank God they have been successful at it for the last thirty odd years. But if war breaks out their duty and their responsibility will be to search out and kill the enemy.

There must have been millions of innocent, honest, sincere, good people killed in wartime. I regret that. I regret it much more than taking the life of some scoundrel who has raped and murdered and caused havoc, in some instances over and over again. There are instances when people have been incarcerated for murder and have murdered twice in the penal institution after being incarcerated there. I think it would have been better to have removed that type of individual from society.

I live today in a province—and I am ashamed to say it—where the capital city has the highest crime rate of any city in Canada. Today we have people living in the capital city of my province who are almost as fearful for their lives as people who live in some communities of that great country to the south of us. I despise a society where people buy a gun to protect themselves. But this is the situation in many parts of the world today, and it is developing in our own country.

I do not think anyone could prove to an abolitionist that retention of the death penalty is a deterrent. But no one can prove to me that it is not. Capital punishment is at least a deterrent to the individual who suffers it, in that he will never commit a crime again.

I can only conclude by saying that I believe we are talking of only a very small segment of our society. What would it be? You could probably count on one hand the number of people who would be removed from society in a year. I believe society deserves that protection, and I believe that you and I, as representatives of the public, have a duty to see that Canadians are given the protection they cry out for today. Apparently, according to a Gallup poll, 78 per cent of our population is in favour of retaining capital punishment. I would say that in my province it is 98 per cent. I would be doing less than my duty, despite the fact that I cannot vote, which I regret very much—

Senator Choquette: Can't you pair with somebody?

Senator McDonald: I hope I can. It is my own conviction that we should retain the death penalty, and it is the conviction of the vast majority of the people of my province.

Hon. Raymond J. Perrault: Honourable senators, we have heard this afternoon eloquent speeches by distinguished members of this chamber, for perhaps no issues strike such emotional depths in mankind as the subjects of capital punishment, murder and death.

All of us have listened with utter abhorrence to the details of crimes which have been committed by the "mad dog" killers in our society. I join in the belief that society has not been protected well enough to this time against those so-called "mad dogs" who prey upon the people of Canada in cities and towns and villages across our nation.

Society wants to strike back, to gain vengence. The first instinct of a human being who has been injured, or who has suffered a grievance or a wrong, is to lash out and strike back, to maim in return, to use physical violence. But can it be that when we support the concept of capital punishment we are saying to the mad dogs in society, "Our only and best recourse is to destroy you"? Yet, after a life has been taken in return, can we really go back to our homes in the belief that we have truly solved the problem of violence by destroying these people who prey on innocent Canadian men, women and children? Surely that is an understandable but overly-simplistic position and response to violence in the kind of society in which we live.

In their hearts many senators, whether or not they support or oppose this bill, know that merely taking a life for a life is not an adequate response to violence and it does not provide the kind of protection our citizens must have. What have we achieved to the present time through our penal system? We have achieved a recidivist rate of 80 per cent; 80 per cent of those who go to prison come out to perpetrate more crime and violence in society. A monumental failure. In any other sector of human endeavour, that 80 per cent would be regarded as an utter, abject, colossal failure rate. Our penal system is not working, and what have we achieved through capital punishment?

Senator Beaubien: We haven't got it.

Senator Perrault: I am talking, honourable senators, about all of the evidence available to us in those jurisdictions where capital punishment exists, and of the evidence available to us when it was in force, to a greater degree than we have it at the present time in Canada.

We talk about crimes committed against individuals in Canada. My good colleague Senator McDonald told us of gruesome incidents in his home province, and Senator Lawson described appalling criminal acts in his and my home area. I share with him the sense of outrage and dismay that those kinds of incidents could happen in our society.

● (1710)

I have listened to those people who cite scripture in support of capital punishment—"an eye for an eye"; "a death for a death"; "a life for a life". The State of Israel, which is one of the ancient seats of our Judeo-Christian heritage, is wracked every day with terrorist murders and violence and the taking of life on a gruesome scale. The State of Israel is the custodian of the Judaic tradition in this world, and despite every terrorist provocation in Israel there is no death penalty, and no demand for its establishment. The leaders of Israel believe that the introduction of capital punishment in their nation would only breed more violence, precisely the kind of violence that we are striving to reduce in our own democratic state.

Can anyone seriously suggest that the State of Israel has not had, within its borders, crime equal to the horrible incidents that we have heard of this afternoon? Perhaps it requires a very enlightened and mature form of democracy for its citizens and its government to resist giving way to the basic animal instinct of revenge and blood retribution, and for those citizens and their leaders to say, "Despite the provocation let us see what we can do to meet the problem of crime and violence in its totality." The decision regarding this measure is not an easy one because there are persuasive arguments and there are good men and women on both sides of this particular issue.

Senator Grosart: That is better.

Senator Flynn: You are improving.

Senator Perrault: Perhaps honourable senators think that this is a humorous debate. I do not share that belief.

Senator Flynn: No, no.

Senator Perrault: If the Deputy Leader of the Opposition wants to contribute constructively, we shall all welcome his remarks.

I am gratified that his new leader, who aspires to be Prime Minister of Canada, stood in his place in the other chamber and voted for this particular measure. I give him full credit—Mr. Joseph Clark of Rocky Mountain, Alberta.

Senator Grosart: So do I. You are not immune from interruption.

Senator Perrault: No, I am not immune from interruption but I listen with respect to your speeches and I shall continue to do so.

Senator Grosart: You have interrupted and I hope you continue to do so.

Senator Perrault: Honourable senators, there are many sincerely held views. What are some of those views? On one side the first argument is that capital punishment is a much greater deterrent than any other form of punishment, because of the built-in fear of the loss of life and, therefore, its abolition would result in the increase of murder. That argument has been advanced and with great sincerity.

It has been said that capital punishment is a just and appropriate one for murder since it is commensurate with the gravity of the offence and it indicates society's abhorrence of taking life.

I want to be fair in setting forth these arguments. As well, the view is advanced that the law should not ignore the public demand for retribution, and that there is general support for the death penalty on the part of those whose work involves regular contacts with the criminal element; that is, the police and prison personnel. It has been said that capital punishment has at least one deterrent—a form of self defence—for the protection of society from the risk of a second offence by the same criminal.

Those are the basic arguments which have been set forth in support of this bill. I think it very significant, however, that on the other hand the opponents of capital punishment include, in this case, the Government of Canada and the leaders of all our major political parties. Yes, the leaders of the major parties in this country support this bill. They can read the public opinion polls. They know the minds of the Canadian people.

The arguments these leaders support are these: The deterrent effect of the death penalty has not been demonstrated, and research in this area has been inconclusive. All available information appears to confirm that the absence of capital punishment has not resulted in a notable increase in murder and other offences previously punishable by death, but that certain abolitionist states have experienced a decrease in crime rates, which is a fact.

Another viewpoint is that the state should set an example of recognizing the sanctity of human life and the absolute wrongness of killing.

Perhaps the final principal argument is that the existence of the death penalty renders criminal justice uncertain and in some cases inequitable because of the reluctance of jurors to inflict the penalty.

It is significant that the statistics indicate that generally those whom we have hanged throughout the history of Canada have had limited economic means or have had very difficult social and educational backgrounds.

Senator Choquette: Poor misunderstood boys.

Senator Perrault: Most were poor and misunderstood; others were not. That is correct. Your observation has some merit.

Certainly, the list of supportive arguments which I have gone through is not exhaustive but I think that one of the points of the government's abolitionist position, which has not received the attention it merits, is that at this time we are engaged in a different kind of debate on capital punishment. This is not a matter of this government's asking Parliament to support total abolition, without any change in parole regulations, with the convicted person going to jail and being released within five or six years, the criminal being let off early and, as some people suggest, almost with the approbation of the state.

Bill C-84 is part of a total package which is being introduced by the government to combat crime, in all its forms, in many, many different areas. Bill C-84 is part of a general offensive against violence in society, against crime, against killers.

There are now significant alternatives to capital punishment. These take the form of life imprisonment with long mandatory terms of incarceration. It should be underlined that these mandatory terms are longer, on the average, than the time so far served by convicted murderers who had their death sentences commuted between January 1961 and January 1968.

I want to say something about commutation. The Honourable Leader of the Opposition told the chamber this afternoon about the record of this government in the area of commutations, suggesting there was some illegality about the process. Surely, the Honourable Leader of the Opposition is aware of the actions of the government in studying every case on its merits, on a case-by-case basis before commutation is granted.

Senator Choquette: They are all good.

Senator Perrault: Commutation is a legal action. There is nothing illegal about it. I have the figures relating to commutations during the term of the last Conservative Government in Canada. The honourable senator occupied a distinguished position in that government.

Senator Flynn: For six months.

Senator Perrault: Well, a distinguished six months, senator.

In 1958, of the 21 death sentences, the government commuted 14. In 1959, 13 out of 15 were commuted. Were those commutations illegal? Of course not. The right honourable leader of your party in the other chamber—

Senator Grosart: Diefenbaker.

Senator Perrault: —was passionately supportive of the idea of commutation. And no one suggested that the act was illegal. I am suggesting to the Leader of the Opposition in this chamber that the government which followed the last Progressive Conservative Government in Canada followed the legal tradition which was established by that government.

Senator Flynn: May I put a question?

Senator Perrault: Honourable senator, I would prefer it if at the end of my remarks you would direct your questions to me. I may not be able to enlighten you.

[Senator Choquette.]

Senator Flynn: You probably could but you wouldn't.

Senator Perrault: Between January 1961 and January 1968, the 28 individuals serving death-commuted sentences had spent an average time of 12 years in a penitentiary prior to their release.

● (1720)

For those who were paroled between January 1968, and September 30, 1974, the average time served rose to 13.35 years. And we are talking in this bill about the awesome prospect of life imprisonment. Mandatory terms have been set down as 25 years for first degree murder, and 10 to 25 years for second degree murder and, although these terms will be subject to review by jurors after 15 years, the seriousness of the offence will lead those who are responsible for the release of convicted murderers to exercise great caution in making those decisions.

A greater certainty of conviction, it is felt, will also be ensured with the abolition of capital punishment, for jurors have often been loath to inflict the death penalty. Eventual release for convicted murderers will mean parole supervision for their entire lifetime, and all that that entails if they commit subsequent offences.

Reference was made earlier in this debate by Senator Lawson to the vicious way certain killers go out and murder again and again. Well, let us look at the statistics. Honourable senators deserve some facts on this particular matter before they vote. Statistics provided by the National Parole Service show that between January 1920 and September 1974, a total of 182 persons who had a death sentence commuted were granted parole—182 in the period from 1920 to 1974. Only 14 of those—14 out of 182—had their parole revoked for not adhering to parole conditions; and only nine persons forfeited their parole on conviction for an indictable offence. Only four people convicted of murder by Canadian courts were convicted of murder a second time between 1920 and the end of 1974.

Senator Flynn: Those executed could hardly do that.

Senator Perrault: Generally, therefore, murderers are not repeaters, and the retentionists' position which claims that capital punishment rids society of would-be second murderers is not supported by statistics.

Senator McIlraith: Would the leader permit a question about those statistics?

Senator Asselin: At the end of his speech.

Senator McIlraith: The statistics the leader is quoting are those of the National Parole Board, and they relate to prisoners released on parole. They do not, I believe, include prisoners released on temporary absence by the penitentiary authorities. Has he the statistics on the latter group of prisoners, and, if he has, will he give them?

Senator Perrault: I will attempt to obtain those figures, if they are available, and present them to the chamber.

Honourable senators, without question, it is the duty of the state to protect its citizens against the effects of crime, particularly violent crime. Rising crime rates have brought home to Canadians a need for changes in the criminal law and changes in the administration of criminal justice. The senators who have spoken in this debate have reflected

very accurately, I think, the concern being felt across this country. Society must be protected more adequately.

As I said, Bill C-84 is before us because of the need to fight crime in Canadian society and to meet the public's need for a greater measure of protection. But again this is not an isolated debate on capital punishment itself. This is part of a general package, and there will be companion legislation to deal with all aspects of crime.

Is capital punishment an effective deterrent against murder? Studies in Canada and in the United States and elsewhere show that capital punishment—and again it is necessary to separate emotion, which is understandable on this issue, from fact—does not have any perceptible effect on the murder rate. As a matter of fact, as honourable senators are aware, most murders involve family members—relatives or wives and husbands—and the main season for murders is around Christmastime when families get together.

In a society with a high regard for the dignity of the individual, the use of the death penalty, despite enormous provocation—not only enormous but horrible, sickening provocation—must be viewed as not acceptable. The problems and conflicts of society cannot be resolved by resorting to violence.

I realize that there are contradictory but sincere views held in Parliament and in the country on the question of capital punishment, but the bill before us gives an alternative to those who regard the death penalty as the only answer. The proposed sentencing provisions for convicted murderers, which I have given you, is a new factor of really great and fundamental importance. The proposal is to deal firmly and effectively with convicted murderers by imposing long, mandatory periods of imprisonment to be served before the offender becomes eligible for parole.

Surely it is our duty as legislators to promote legislation which provides the Canadian public with maximum protection from all crimes, not only murder. Other forms of violence are considerably greater in number than the ultimate crime. In the context of this obligation, we have to ask ourselves this question: Should we give high priority to the rational dimensions of the issue, although we are always aware of the moral questions and moral beliefs involved which have to have a place in any debate on such a complex issue?

We endeavour in this chamber and in Parliament to make essentially rational decisions that are preferably based on evidence, and that are always in the public interest. We pride ourselves on the rational process of going through statistics and economic reports, some of which are better than others; but, generally, in Parliament we try to make our judgments on a rational basis and we try to keep emotion out of the decision-making process as much as possible.

There has been ample opportunity in recent years to study research findings and data on the subject of the death penalty. The findings, frankly, have been inconclusive, as some senators have pointed out. This means, essentially, that there is no definitive study in the Canadian experience, or elsewhere, that indicates there is absolute proof, or even a preponderance of evidence, to support capital punishment as a deterrent to the ultimate crime of murder. It cannot, therefore, be advocated as the definitive, or even as a reasonable, solution for what more and more thinking Canadians agree is the focus of our concern in this area—that is, the protection of the Canadian public.

If such evidence existed and if we could be enlightened by proof that, by executing murderers, murder and crime generally would be significantly reduced or discouraged in the future, I think most of us—and I am one of them—would put the public interest above personal considerations and would support the scientific findings. I would find myself in support of retention under those circumstances. But that is not the present situation.

Persons engaged in research in this field are themselves baffled by the complexity of the issue, by the numerous variables, and by the difficulty of identifying motivation and of prescribing modification in criminal behaviour. I should like to quote from a well-known Harvard University study, the Wilson Study. Professor James Q. Wilson spent several years independently studying this subject. The following are the conclusions the professor came to:

> Three things can be said about recent attempts to measure the deterrent effect of capital punishment:
>
> 1. There is virtually no serious study that indicates that the death penalty is a deterrent above and beyond imprisonment;
>
> 2. None of these studies is sufficiently rigorous to prove beyond dispute the absence of deterrent; and
>
> 3. It is most unlikely we shall ever have a study that settles the matter one way or another, for the obstacles in the way of a conclusive study are probably insuperable.

● (1730)

Another American scholar in the field warns:

> Policy suggestions based on existing evidence can only be made with a clear recognition of the inaccuracy of this evidence.

If expert studies in any area cannot produce conclusive results, can government be expected to do so?

If scientific research cannot prove that capital punishment can and will deter would-be murderers, government certainly cannot guarantee that execution by the state will enhance the protection of the citizen from the crime of murder. While the public is concerned about violent crime, and while this concern leads many to regard the death penalty as a "cure-all" for the ultimate act of violence, the government has concluded that there is no scientific or definitive evidence to support this "cure-all" view, which is the easiest view to accept from a human and emotional standpoint, and which we, as human beings, find ourselves continually involved with.

This lack of convincing proof is one of the reasons for Bill C-84, which proposes a new, more efficient approach to the disposition of convicted murderers. Essentially, the legislation must be viewed as a new approach to deterrence, which, after all, is the fundamental goal of criminal law. The establishment of a system of justice in which there is a greater probability of detection and apprehension is the first step towards a more efficient deterrence of crime. This, of course, is largely dependent upon the resources of our police forces, although it can be argued

that the community should also be encouraged to participate in this endeavour. However, the certainty of conviction is an area in which legislators can make a significant contribution.

Prior to 1962, capital murder had the lowest conviction rate of all violent offences in this country. One possible reason for this is that many juries were influenced by the fear of inflicting death by rendering a verdict of guilty. Referring to the British experience, Professor James Q. Wilson of Harvard, whom I have already quoted, noted that the number of murderers found insane by the courts decreased dramatically after the death penalty was abolished in Great Britain in 1965. Obviously, this cannot mean that there were fewer insane people in Great Britain after 1965. What can be inferred, however, is that the verdict of insanity must have been used to protect the accused from execution. At least, that is a logical presumption. Clearly the abolition of capital punishment will remove the hesitation and reluctance formerly experienced by juries, and will encourage, perhaps, a more consistent application of the law.

This increased certainty of conviction should contribute significantly to deterrence. The person who premeditates a murder will not be able to gamble on a manslaughter conviction, for I do not believe that juries will hesitate in deciding on the implementation of the proposed penalty for first degree murder contained in Bill C-84.

In addition to juries, there are other elements that can bring about unequal justice in implementing the ultimate penalty. I am referring to the human variables involved in police investigations, in the crown attorney's outlook and other factors over which Parliament has no control. We must also bear in mind the financial resources of the accused with regard to fighting effectively in the courts to save his life. Can we assume that all the components of our criminal justice system are ideal, or what they should be; that the law is always applied uniformly from case to case by dispassionate judges and juries, by perfectly fair counsel for the Crown, by truthful witnesses and by highly skilled defence lawyers? Can we be sure that there is equal justice for rich and poor in the matter of entering a defence?

Senator Flynn: What about legal aid?

Senator Perrault: Although I believe our system to be good and, generally, equitable, perhaps some senators will agree with me that we cannot consider it perfect, and in the light of this we cannot take the chance that certain discriminatory standards could result from the irreversible act of execution.

What we can say factually about the Canadian experience with respect to the deterrent value of capital punishment is that during the three decades prior to 1960 the number of persons convicted of capital murder, and therefore subject to capital punishment, remained fairly constant at the rate of about 200 per decade. Surely this fact must cause us to reflect momentarily, for it clearly indicates that punishment by execution did not decrease the rate of capital murder over a 30-year period. If one were to study this period on a case-by-case basis within the context of the conviction rates that I have already cited for murder, manslaughter, attempted murder, shooting and wounding, and if one were to take into account the reluctance of juries, as well as the relatively constant number of capital murder convictions per decade, I believe one could not conclude decisively, one way or the other, whether the death penalty served as a deterrent during those 30 years.

If we look at the situation after the suspension of capital punishment—that is, after 1962—the evidence does not show that such suspension has caused an increase in the homicide rate. One of the most distinguished educators in this country, Professor Fattah, Chairman of the Criminology Department of Simon Fraser University, one of our Canadian institutions of learning, in 1972 undertook a study of the deterrent effect of capital punishment in Canada. He noted that in certain provinces, such as Nova Scotia in 1968, Ontario in 1968, 1969 and 1970, Saskatchewan in 1968 and Alberta in 1968 and 1969, the homicide rates actually declined. There were fewer murders, not more. The Ontario figure here is regarded as being of particular significance because Ontario is the most populated, most urbanized and most industrialized province in Canada. Following the 1972 study, data for different Canadian cities also reveal fluctuations. In 1973, for example, the murder rate in Montreal and Vancouver fell, despite the abhorrent crimes committed in the home area of myself and Senator Lawson, while the murder rate in Toronto rose. In the following year, 1974, the murder rate in Montreal and Vancouver rose, while that in Toronto fell. Clearly the variation in murder rates cannot be explained in relation to the suspension of capital punishment because the same law applied in all parts of the country.

Having considered some of the major arguments that have a degree of scientific validity, we must consider the psychological and moral aspects. We have to ask ourselves whether brutal punishment accustoms people to brutality, and whether ends are generally conditioned by means. The people of Israel, whom I mentioned earlier, considered this question and they rejected the idea of brutality, in spite of severe provocation, because they agree that ends are generally conditioned by means. Many other countries have taken this position as well. Violence breeds violence. Senator Hicks, an educator of distinction, knows a great deal about history, and the fact is that history teaches us that at different times vengeance and retribution were part of the socio-cultural fabric of criminal justice, not necessarily because they reformed or deterred the offender, but because they provided a degree of psychological assurance and perhaps even satisfaction to the offended, and there is something of that in the mood prevailing in some of the provinces today.

Years ago it was found to be appropriate to have capital punishment inflicted on a 12-year-old boy for stealing a loaf of bread for his starving family by cutting off his head, which was then put outside the city gates. This was done, as you historians in the Senate are aware, because it gave psychological assurance and satisfaction to the offended. It is to be hoped that we have evolved to the point today at which we can place a higher value on the dignity of human life than on the need for vengeance, regardless of the provocation, which calls for great fortitude of spirit, and that we have modified for the better our priorities and values.

Among these new priorities are liberty and the respect for human life. Consequently the removal of liberty under

this new program by a long term of incarceration must be regarded as the removal of one of humanity's most precious rights. This in itself constitutes a severe sanction, and it is an indication to law-abiding citizens that severe penalties still exist for those who engage in the ultimate in anti-social behaviour.

● (1740)

Violence in our society and in other parts of the world, whether shown on television screens as entertainment or revealed in the statistics of increasing crime rates, is a vast and complex problem that requires urgent attention. But how can the use of violence by the state through the execution of convicted murderers in any manner bring us closer to a solution of the problem? The values that we in Parliament use in making major decisions tend to be viewed as examples by the citizens of this country and, in particular, by the young people in our country who need our guidance. The abolition of execution by the state through the legislation before us will, it is hoped, be a clear indication of our rejection of the use of raw, naked violence as a solution to any and all problems.

Senator Flynn: It is 6 o'clock.

Senator Perrault: Honourable senators, with your leave, I have one more paragraph, so may I complete it?

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

Hon. Senators: Agreed.

Senator Perrault: Honourable senators, how can we logically advocate the use of discretion and informed reason in the conduct of our affairs to make major decisions, to govern different aspects of our lives, and at the same time implement the most violent form of punishment in the form of the death penalty? This inconsistency becomes even more illogical and indefensible if we cannot assure the public absolutely that the death penalty works in terms of its ultimate goal—the deterrence of murder. On the evidence, no one can provide that assurance or that certainty to Canadians.

Therefore, the fundamental question that we must all ask ourselves is: How can we take effective measures to protect the Canadian public against the acts of those who commit violent crimes? And there are no simplistic answers, no answers regarding murderers which say, "Let us hang them or gas them or shoot them. Let us take away their lives." There are no simplistic answers, honourable senators. To overcome crime and violence is a long, costly, complex and difficult process. The challenge is there, but the danger is that we may yield to simplistic answers. The evidence is that the retention of capital punishment in our criminal law would not only be ineffective but might actually be counterproductive to our ultimate goal which is, of course, the protection of our society against violent crime.

Some Hon. Senators: Hear, hear.

Senator Flynn: Honourable senators, since the Leader of the Government has completed his speech, may I now put my question? He referred to the study of cases, in all of which cases commutation was granted. Does the senator not recall the statement of the Solicitor General, Mr. Allmand, to the effect that as far as he was concerned nobody would be executed in Canada? Are we not justified in concluding that these so-called studies, if they were engaged in at all, were merely pro forma and that the end result, commutation, was never in doubt?

Senator Perrault: Well, honourable senators, as I recall the statement of my colleague, he said that he would resign if it came to the question of carrying out an execution. In other words, he was saying—

Senator Flynn: You cannot defend him.

Senator Perrault: He was saying, I think—and I can only attempt to interpret his view—

Senator Flynn: You cannot defend him.

Senator Perrault: Let me set out what the facts are. Mr. Allmand said that in the event of a cabinet consensus that there should be an execution carried out, he would resign rather than undertake that responsibility. That is a perfectly frank statement for any minister to make, and I feel sure he would have resigned under the circumstances I have described.

The Hon. the Speaker: Honourable senators, pursuant to rule 12, and since it is now 6 o'clock, I shall leave the Chair until 8 o'clock this evening, unless the Senate by unanimous consent decides to complete today's business.

Senator Flynn: No, 8 o'clock.

The Senate adjourned until 8 p.m.

At 8 p.m. the sitting was resumed.

Hon. George J. McIlraith: Honourable senators, I have very few remarks I wish to make tonight, and I assure you that, unlike other occasions on which I have spoken, I will be very brief. Today I listened with a great deal of interest to the debate, and it caused me some concern. Some excellent points were raised on both sides of the question. However, at times I thought they became a little out of perspective and, if I am able to do it tonight, which I may not be able to achieve, I would like to bring what I believe to be the main question before this house more clearly into focus in the minds of honourable senators before we vote later today, or tomorrow, as the case may be.

The question before the house is simply that of second reading, or approval in principle, of Bill C-84, an act to amend the Criminal Code in relation to the punishment for murder and certain other serious offences. For the purpose of the point I wish to make, we can disregard the "other serious offences". I believe I am fair in describing the bill as simply a bill for the abolition of capital punishment for the offence of murder in Canada and substituting therefor life imprisonment. I will deal here only with first degree murder without the eligibility for parole until 25 years of the sentence have been served. I would like to say something about that latter reference later in my remarks.

Now, I have said it is second reading of that bill. What is its history? The bill was presented to the House of Commons by the Government of Canada and it was presented as a government measure, somewhat differently than previous bills on this subject have been presented in recent years. It was presented as a government bill and, indeed,

observers of the action of the government will have noted that the ministry voted solidly in support of the bill in the other place.

Senator Asselin: They said it was a free vote.

Senator McIlraith: All votes are free, as far as I am concerned.

Senator Asselin: When all the members of the ministry vote the same way it is not a free vote.

Senator McIlraith: I do not wish to digress into the argument as to a free vote. I vote as I wish; sometimes it is a hard decision to make, as this one is for me a hard decision to make. However, I have made it and I wish to explain it, because I believe it is a point that should be considered by all honourable senators.

In that vote on second reading in the other place the House of Commons, the elected representatives of the people, voted by a majority, not a very large majority but a clear majority, to abolish capital punishment for murder.

Senator Flynn: "Clear" is, maybe, arithmetic.

Senator McIlraith: In any event, it was a majority vote, and that is the way we operate in this Parliament. We do not operate on the veto system of some other societies, but on the majority vote system. Then it came to committee stage in the other place and was very fully argued, with many very interesting arguments on both sides being strenuously advanced, with sometimes, I thought, a degree of overfirmness. In any event, there they were. One of the arguments had to do with retaining capital punishment for the murder of policemen and prison guards, and the vote on that amendment, which I considered the key amendment among many amendments, was defeated by a clear majority. The bill then came to third reading in the other place, again an opportunity to defeat the bill. On third reading the other place voted for abolition of capital punishment for murder.

The Leader of the Opposition criticized the government—I think I am summarizing his speech accurately—for not applying the law these last few years; and, certainly, the facts are that there has been no capital punishment administered since 1962.

I am familiar with the procedures which are followed in the examination of individual capital cases, and in those cases of which I had knowledge when I was a member of the cabinet, those procedures had been followed meticulously. Whether honourable senators would agree that the decision in a particular case was right or wrong, the fact remains that each case was looked at most carefully. I know, because for a period, as Solicitor General, I had the responsibility of preparing the cases for consideration and, believe me, they did not go forward to the cabinet thoughtlessly. I can tell you that. It is a difficult, tough job to do, and they were considered carefully. I am not at liberty to tell honourable senators the results of them, but honourable senators are at liberty to agree or disagree with the conclusions reached.

There were also some other critical remarks made of the government by the Leader of the Opposition. He being the Leader of the Opposition, I cannot find fault with him for doing that. He raised a question arising out of the remarks of one of my successors in the office of Solicitor General, and I must say that those remarks caused me great concern. I cannot see how one can objectively fulfill the duty of Solicitor General, in meeting the requirements of the Criminal Code in relation to capital cases, by saying that one would resign before one would sign an order in a capital case. However, that is another question. In my view, it is irrelevant to what we are dealing with here tonight, but I would be less than frank if I did not admit that the statement caused me great concern. I recall the statement well and it concerned me greatly, but, as I say; it is irrelevant to the question we are considering tonight.

There were also some critical remarks made of the Prime Minister. Far be it from me to criticize the Prime Minister, but I must say that in connection with his remarks on capital punishment, which were quoted by the Leader of the Opposition—and the Leader of the Opposition is an abolitionist—I would not go quite as far as he did. I read *Hansard* the next day, and those remarks bothered me. He said:

> It is inevitable that the defeat of this bill would eventually place the hangman's noose around some person's neck. To make that quite clear: if this bill is defeated, some people will certainly hang. While members are free to vote as they wish, those who vote against the bill, for whatever reason, cannot escape their personal share of responsibility for the hangings which will take place if the bill is defeated.

It is perfectly legitimate for anyone to argue that that is perhaps a surprising use of the high office he holds; but, be that as it may, what piddling criticism is that to make on an issue as basic as the one we are dealing with tonight?

That is all I wish to say about that. I did not like the remark, I can tell the Leader of the Opposition frankly. For my part, I have been a retentionist—that is, if you call a retentionist one who wants to see capital punishment retained for murders of policemen and penitentiary guards because of the fact that the nature of the work they do places them in such a position of susceptibility to murder, as was so eloquently expressed by Senator Choquette this afternoon, that for the sake of society we need it. I have never been happy with that definition. If I remember correctly, I spoke at some length in support of the bill extending the present law. Were we involved in that same debate today, I would again support the abolishment of capital punishment, except in respect of certain classes of murderers. I am one of those who believe that for certain classes of murderers, a certain segment of murderers, capital punishment does act as a deterrent.

● (2010)

In my time working in this area I have been unable to find any statistics that have any relevance to this subject. I have not yet had an opportunity to explain why I interrupted the Leader of the Government this afternoon. With great deference, I asked my question because I did not want the statistic he was using to become implanted as a solid argument one way or the other.

My belief that capital punishment acts as a deterrent in respect of certain classes of murderers is based on actual cases—cases where I became aware of what the murderer had said when arrested. Some of it is slightly profane. That kind of evidence is not available to the statisticians working in our universities. In many cases, it never appears

anywhere in the evidence at trial. In any event, the statisticians generally look at the summary of the case and the findings, and not at the incidental evidence that may appear through the case. For that reason, such information is not generally known.

I am firmly convinced, based on such evidence, that for certain classes of individuals, what one might call professional criminals, the serious criminals, capital punishment does act as a deterrent. I readily admit that it is not a deterrent in the case of one member of a family killing another.

Notwithstanding those views and those arguments, to expect the Senate now to defeat a bill with the history of this bill and its predecessor bills, and in the light of the record of previous governments, both Liberal and Progressive Conservative, is not realistic.

In administering the laws of the land, the government does a much better job if it knows it has the support of Parliament, specifically the support of the elected representatives of the people behind it. That is when governments best administer laws. The very root of our system is that the government is responsible and answerable to the elected representatives of the people. In this case, it seems to me, after much public furor—and there has been a great deal written and spoken on this issue across the country, a great deal of high feeling on it—the elected representatives of the people having chosen to support the government in bringing about the abolition of capital punishment, to expect to defeat the bill is simply being unrealistic. It is not, in my view, a proper use of the Senate's power and authority in relation to the government of this country.

Senator Choquette: Are you for abolition of the Senate?

Senator McIlraith: I think I have demonstrated in the last few weeks that I am not for abolishing the Senate.

Senator Choquette: Do you think the majority of the Canadian people are for the retention of the death penalty?

Senator McIlraith: I would suspect that the majority of people, at the moment, are for retention. I would also expect that within three, four or five years the people will have seen that our action in this respect was right, and they will be for abolition. That is the answer to that question. If you ask me about the present time, it is certainly my assessment, having been active in political life for many years, that they are for retention at the moment. I would be the first to grant you that.

I hope the abolitionists, with whom I am going to vote on this issue, will forgive me for saying this. I would rather gently tick them off a bit for some of the arguments about conscience and all that. We use our conscience day after day in the parliamentary process, but I believe that a man who holds a different view from my own on any question may have as good a conscience as mine, or even a better one. I just do not accept that argument.

Senator Flynn: You mean he is as civilized as you.

Senator McIlraith: I believe in a free society, in a free parliamentary system. Forgive me, but I must say I am a little critical of some of the abolitionists' arguments about conscience. They go a little too far in suggesting, by inference, that those who are not for abolition have in some way a lesser conscience. I do not accept that proposition at all.

In the circumstances of this particular bill and the history of the government's administration of the executive act connected with capital punishment, and the votes in the House of Commons, the only reasonable and proper way of dealing with this subject is to vote for the abolition of capital punishment. Can you imagine the situation of trying to force a government to carry out capital punishment when it has brought forward a bill to abolish it and submitted it to Parliament; when that bill has been debated for many days by the elected representatives of the people, who in turn are answerable to the voters of Canada on this widely debated subject, and who voted for it three times knowing that they as members of Parliament must seek re-election in two years—

Senator Flynn: The sooner the better.

Senator McIlraith: It is just not realistic. How could the government, in good conscience, take the life of a man in those circumstances. Surely, they must feel their responsibility. This is an issue on which the electors will have before them those who supported the bill, and they will be able to vote for or against them, and thus express their views.

Senator Asselin: The answer is very simple. The government will simply say it was a free vote and a free vote abolished capital punishment, so the government action is covered.

Senator McIlraith: The members of the House of Commons are responsible to their electors, and that is the way it always must be in this country as far as I am concerned. They have voted for abolition, and it is not reasonable in these circumstances for us to require the government to carry out the necessary executive action. Therefore, honourable senators, I come to the firm conclusion that I must vote for the bill for that reason and, I must say, for no other.

● (2020)

I want to make a brief reference to one small item. I know this clause dealing with persons convicted of first degree murder requires that they be sentenced to imprisonment for life without any eligibility for parole until they have served 25 years. I do not happen to like that particular clause. I do not think it is a proper clause. I think that the parole board or some other judicial body should have the power to review individual cases. Just imagine if a 60-year-old man were sentenced and then became terminally ill after, say, 20 years, and there is no authority to release him. It is not realistic.

I hope in the course of the next few years, after some have been sentenced under this provision, the government will look to amending this clause and coming forward with a better provision. There is plenty of time to do that. This will only be applicable to those sentenced after this bill passes.

I would make this request of the Leader of the Government, that in due course the government consider that point in an endeavour to find a better method of detaining a convicted person in prison for a long term while providing for some kind of judicial examination of individual cases, and power to release people under exceptional circumstances—for example, when a prisoner is terminally ill.

I thank you, honourable senators, for listening to me tonight. I hope my argument appeared reasonable to you.

Senator Hicks: Before my honourable friend concludes his remarks, would he permit a question? Would he not agree that the logical extension of the main argument he used would have the effect of saying that if the government does not like any particular law or set of laws, all it has to do is fail to administer them in the true spirit and intent, and thus put Parliament in a position where it must change the laws to agree with the government's attitude? Surely this is shifting the notion of responsibility of the government to Parliament to the opposite pole.

Senator McIlraith: No, I would not agree with that conclusion at all. I am sorry, I just cannot admit that that would be a logical extension of my argument. My argument is confined to a rather narrow point. It is confined to the state taking the life of an individual, and all the executive acts after the judicial process involved in that process is completed.

Hon. Hartland de M. Molson: Honourable senators, I was somewhat reluctant to take any part in this debate because, first of all, I think my views are fairly well known and nothing very much has happened to make me change them. However, in the debate which we held in this house on November 7, 1973 I set out my views, as I thought very clearly. I shall not give you a page number in *Hansard*; perhaps you will just take my word for it.

I believed then, as I believe now, that capital punishment is a deterrent. I spoke at length, and emphasized the trend toward gangland enforcement by murder, called by gangland bosses "execution." I also emphasized at that time the universally disturbing trend of disrespect for the law which, in my opinion, starts at the top and naturally works its way down.

When I say it starts at the top, I do not suggest for a minute that the most responsible people in this country have no respect for the law. I mean anything but that. I mean that those who are in a position of responsibility and authority command the respect of the people, particularly those who support them politically. It is their attitude which I refer to when I say the trend has been towards disrespect for the law, because I believe that there has been an apparent lack of emphasis on the need for firm deterrent punishment in the last few years. There seems to be a tendency to play down the seriousness of crime, or our view of the seriousness of crime. If, for example, we infer that murder is no longer as serious an offence as we thought it was, because we are not going to use the extreme punishment, then at the same time as we say that we put the other serious crimes on a slightly lower level. We push the whole list down a notch. Armed holdup becomes a little less serious; rape, robbery, theft and so on become less serious, because when you start at the top and make that seem less serious you obviously, by gradation, reduce the importance that is given to the seriousness of other crimes. That is what I believe has been happening, and to me it is extremely disturbing.

In the 1973 debate I emphasized that I detested hanging and I suggested other means of carrying out the death sentence, as Senator Choquette did today, quite in agreement with my views.

[Senator McIlraith.]

I should like to say at this time that I agree thoroughly with Senator Bourget, that there is nothing we can say now that is really going to change anybody's mind. I realize that. So I am only going to try to put briefly the way in which I view this situation. I will attempt to be brief because we have had some splendid speeches in this debate; the average of them has been of the highest order. I respect the views of honourable senators and the way they have expressed them. If I happen to say something in my remarks which disagrees with what they have said I hope they will realize that it is because I disagree and not because I do not respect their views.

I should like to mention that, to my mind, since 1973 the trend in the type of murder has been particularly disturbing. I refer to gangland slayings. I believe the increase in the number of gangland murders has certainly substantiated my views as expressed in that debate.

Organized crime has been playing a bigger and bigger role in my part of the world, Montreal, and it has become quite evident. We have had the Cliche Commission and the Crime Commission to show how organized crime has infiltrated our everyday lives, and has done so to a degree most of us simply could not ordinarily accept. Crime is into all sorts of business. It is not confined only to loan sharking, vice, drugs and so on. For example, we have read about the spread of organized crime into the meat business, and there are all sorts of other businesses in which organized crime is playing a part. Organized crime has a very simple way of enforcing its views. When somebody disagrees, "they" execute him. It has been happening, regardless of the fact that when I said so before some senators contradicted me, saying there was no evidence of organized killing. I am sorry to have to say so, but statistics more than prove the truth of what I said then.

With the removal of capital punishment, it will be even easier to get a "contract," as they call it, to enforce the will of organized crime. With the passage of Bill C-84 there will no longer be any question of the enforcer, the person who has been given a contract, being executed. In fact, because of cabinet commutations there has been no real danger in that respect since 1962.

● (2030)

I would like to digress a little bit at this point. A little earlier there was mention of statistics. I do not think there are any statistics that really help us in this matter. I not only mean statistics illustrating whether or not capital punishment is a deterrent; I simply think available statistics do not help us in any way. I know that one set of statistics was quoted, which was based on the number of convicted murderers. To me, however, the number of convicted murderers is not a very good base for such statistics. I would prefer as a base the total number of homicides. Any number of people charged with murder are convicted of manslaughter, or perhaps are acquitted. I would like to have statistics based on homicides, and to know whether a person involved in a homicide killed again, or was involved in some other serious crime. The number of convicted murderers who have repeated their crimes, however, is so limited in its application, as far as I am concerned, that it is not a valuable statistic. This is one of the problems with all of the statistics that have been brought forward in the matter of capital punishment.

I do not need to remind you that in Montreal, in the year before last, 13 people were killed by being locked in a building which was then set on fire. A little later five people were found shot to death and stuffed in the trunk of a car in the tenderloin district on the south shore of Montreal. These are not "crimes passionnels." These are not crimes such as that of someone getting mad at Christmastime and killing his mother-in-law. These are vicious, planned murders committed by people of the type that Senator McDonald spoke about earlier today, with regard to whom it is useless to talk about the bad breaks they had as children, or to suggest that if we took better care of them they could be rehabilitated. The people who commit that sort of crime are beyond hope, and I agree with Senator McDonald entirely when he says that they are people we can well do without, and which society would feel better for eliminating.

Senator Macdonald: I wonder if the honourable senator would accept a question at this point.

Senator Molson: From you I would accept a question at any point.

Senator Macdonald: Can you tell me how many of these people were arrested, and, if they were tried, how many were convicted? I am referring to the people in Montreal that you mentioned.

Senator Molson: I think one was never caught, and I think one was shot while resisting arrest. One was a fellow called Blass, who was shot when he reached for his gun at the time the police found him in our country heaven north of Montreal, the Laurentians. I do not think anybody was arrested in connection with the murder of the five people who were executed and stuffed in the trunk of the car.

Montreal, of course, is now sometimes referred to as the murder capital of the world. We had 111 murders in 145 days there in the year before last, I believe.

Such murders, as I said before, are not the kind that arise out of family disagreements. They are not the kind of murder that is committed when people drink rubbing alcohol, lose their temper, and seize the kitchen knife. Most of the crime in our area is associated with all the rackets, which the police know about, and which many of us know about, but are unable to get at, and which people put up with because they are so terrified they do not know what else to do. When they talk or fall out of favour the enforcers move in, and that is when you get one of these dirty little murders that I mentioned, where somebody has two or three bullets put into the back of his head and is dropped into a ditch or stuffed in the trunk of a car, or some such thing.

Honourable senators, I do not want to go back over all the things we have heard before. I do not want to take up your time in that way. I do want to say, however, that regardless of the stated views of the Prime Minister and members of the cabinet and others, my opinion, for what that is worth, is that the public of Canada gives every indication of being really uneasy as the consequences of the overriding of the courts by the cabinet. I believe the public is worried also by the very obvious difficulty which will occur in recruiting men of integrity and courage for the police forces and the penitentiary services. Their job is to protect all the citizens; that is what they are engaged for, including all of us and cabinet ministers. Now death by gunfire in the ordinary course of their duties is a greater possibility. It is certainly a genuine occupational hazard. I felt before that singling out those categories of people was wrong, as Senator McIlraith said, and perhaps it was, but I think that if we are going to enlist good people to carry out functions in even greater danger, functions that require great integrity—and, mark you, the pay is not enormous—I do not know how we can take away from them the greatest possible protection.

I read, and heard on television the other night, that by a strange coincidence the government is already planning new high-security penitentiaries to take care of prisoners who will no longer be sentenced to death and others who are extremely dangerous; that these new prisons are going to be so designed that there will be practically no contact between the prison guards and the prisoners, and that that will preclude all the dangers. They are going to be built at a cost of millions of dollars. Now, honourable senators, I do not mind the expenditure of the dollars too much, because the government is going to spend them anyway, but I do mind the thought that we now have to devise another special type of penitentiary because what we have at the present time is no longer any good. I agree with the Leader of the Government who said that the judicial system has not been working well, and that the prison system has not been working well enough. But do you mind telling me how we are going to get better people to run them in a more efficient manner? Do you know of any people who will enlist in these services? I don't know of any. They would be extremely dedicated people who would be prepared to go and work under these conditions. Conditions were bad enough before because they knew that commutation of the death sentence would remove the protection of the death penalty but now they do not even have that protection. So now we are going to have special hygienic, barred places for these criminals, and we are planning to take care of the situation in that way. But I would like you to think of just what is happening. Where does all this lead us?

First of all, let us take the police. Think of yourself, or your son, or your cousin, as a policeman. You meet an armed bandit. You have no more protection than the civilian who is trying to catch the bus nearby. The bandit has a gun. What are you going to do? Are you going to go and say to him, "Drop your gun, bud"? Or are you going to let him have it right away, bang, and if you are well trained or lucky you are going to hit him? That is what is going to happen. The same thing is true of prison guards when they run into any sort of fracas or disturbance. They are not going to go and say, "Please, let me have that knife you are hiding." They are going to get very, very tough indeed, and this could easily lead to more accidents and even more deaths. But as far as policemen are concerned, and Senator Williams brought this up, they are going to shoot first and talk afterwards. More violence! More deaths! It has been suggested that conditions are rapidly approaching when we will want to carry a gun to protect ourselves; that time may already be here. So, after Bill C-84 becomes law, this Utopia, we will look forward to a situation in Canada reminiscent of "High Noon."

● (2040)

But that is where we are heading and we are going to have to protect ourselves, because protection is simply not available. It is not there in the first place, according to the evidence from crime statistics. Secondly, if criminals are caught, the severity of punishment has been so light, including that for murder, that there is very little deterrent at all. What is the effect of a 25-year sentence of imprisonment? Will the prisoner be happy and say, "Thank God I was not hanged"? Is he going to go into this new, hygienic penitentiary saying, "What a lucky fellow I am; where is my steak and colour television?" and live there 25 years happily thereafter? It is reasonable to suppose that in spite of the aberrations or, in some cases, the viciousness of these characters, they are human beings. They are going to look forward to 25 years in a beautiful new penitentiary with absolute horror and it is going to grow from day to day. What will they think of? Will they think of the beauties of a country in which capital punishment has been abolished and everyone is trying to make conditions better, helping to avoid broken homes, and so on? Or will they think of killing a guard or committing any crime to escape to a scene where there are people, air and trees? I suggest to you that we will produce a new type of criminal, a 25-year criminal, who will have absolutely no object or reason for surviving in the new and beautiful prisons. We should think about that before deciding what a great improvement this is.

Honourable senators, I have spoken longer than I intended. I really believe that we have gone back over the issues of the previous debates. Perhaps we have muddled ourselves and allowed a little more of the Parliament Hill fog to come down on us once more by attempting to re-assess the old arguments and questions in our minds. In my opinion we should not do that. We should realize that the Senate is faced with this very difficult, serious and important decision, and we should ask ourselves: what is our purpose and what is our duty? I suggest to you that one of the reasons for creating the Senate was to have representation here for people from the various parts of Canada, particularly minorities. I do not suggest to you that 78 per cent in favour of capital punishment is a minority; in fact, I would say that it is a very substantial majority. However, I do not believe that being appointed in order to defend the problems of a minority should prevent us from dealing with the problems of a majority. I would like to emphasize, as suggested by Senator Beaubien earlier, that as appointed members of this chamber from our respective parts of the country we have a responsibility to support the views of those whom we represent. I do not believe it is up to us to govern, lead or decide which way the people of Canada should go. In my opinion it is up to us in the Senate, if we have any useful function to perform, to reflect the views of those who, I think, know that we are genuinely interested in their point of view, welfare, safety and security. For these reasons, honourable senators, I will vote against the bill.

Hon. George I. Smith (Colchester): Honourable senators, I feel at this time constrained to enter this very serious discussion, not so much because I think I have any new views to propose for the consideration of the Senate—I suppose that all possible points of view have already been put forward—but because I feel very strongly that some of the views that have been put forward, I know with great sincerity, require some examination before being accepted as having sufficient persuasive power to help one come to a conclusion on what is the most difficult question I have faced since coming here.

I should like, first, if I may, to say I believe all who have spoken did so from a real conscientious belief, with real sincerity, and did not intend to reflect upon the conscientiousness or sincerity of others. However, as I listened to some I could not help but feel that their intensity of belief in the points of view they were putting forward led them, perhaps, to overlook the fact that others might have just as highly intense feelings as they, and might be just as capable as they of forming an intelligent and useful opinion. I do not wish to make any pointed comments with respect to that score, but it did seem to me that some of the speakers were over-zealous in making the points they intended to make.

I respect the views of all others. I try to do that at all times, particularly when I know without any doubt that we face a serious question which causes the utmost agony of decision—perhaps that is not too strong a phrase—in the minds and hearts of all who have to deal with it. Again, I say that it seems to me that we have to approach this matter in the spirit that, however zealously we may feel with respect to this problem ourselves, others have a right not only to be heard, but a right to have their views considered in the light of the fact that they are conscientious, honourable people wrestling with a most trying and difficult problem.

If I may do so without any thought of offence at all, I cannot help but make some reference to the view which the distinguished Senator McIlraith gave regarding his decision as to how we will vote. Certainly I would be the last one, or one of the last—and, I hope, right at the very last—to suggest that Senator McIlraith is in any way one of those who is prepared to follow the government of the day just because it happens to be the government, even if it is a government of the political persuasion in which he believes. As he said himself a few minutes ago, he certainly has demonstrated that during the last few weeks. However, I find it extremely difficult to accept for myself—although I know he believes it completely—that the Senate should abandon its responsibilities because the other place has, either after a long time or after a short time, made a particular decision. He carried that, I believe, one step further, as I followed him. If I do not express correctly the point he endeavoured to make, I hope he will ensure that I do so before I resume my seat. He extended the principle to the point that, after all, if all the members of a government, even when they were telling the other members of the House of Commons that this was a free vote, decided to vote together in a certain way on a certain question, then it would be impossible for them to carry on if their views were not accepted and, of course, what he was saying, as I understood it, was if they were not accepted by this house.

Senator McIlraith: Would the honourable senator permit me to speak?

● (2050)

Senator Smith (Colchester): I would like to be corrected.

Senator McIlraith: That was not my argument. I made reference to executive responsibility in murder cases, where it is the duty of the government to examine each individual case with a view to commuting the death sentence to life imprisonment or having the death sentence carried out, as the circumstances may warrant.

My point was how a government, after the record of three votes in the other place and its own clear, unanimous record in approving the bill, could reasonably be expected to administer the law; and by "administer the law," I had reference to that part of the law which comes under the administration of the government, as distinct from trial in the courts.

Senator Smith (Colchester): I thank the honourable senator for ensuring that I understand his point. I think I do. I think that what he is saying, after his having corrected me, is that his argument was concerned with this one particular kind of case, namely, the exercise of the executive responsibility related to convicted murderers. I accept that. I thought he was casting a wider net.

Even at that, I find it extremely difficult to accept the proposition. Surely, if the Senate thinks that something is wrong it should not allow that kind of consideration to influence it to vote against its conscience or to prevent its members from following the dictates of their consciences.

One must remember that if, in a symbolic act, all members of the Privy Council sitting in the House of Commons decide to vote unanimously in a certain way and a deliberate choice is made, then those who make it must stand or fall by it; and if by chance they have made the wrong choice they must take the consequences. They cannot expect members of the other chamber to go against their consciences to help them. Although the honourable senator may have that view, I would like him and others to understand clearly that I have a different view.

In the other house they made their choice. They did not all have to decide to vote together. They could have decided, as perhaps they did, to follow their individual consciences, and it could be that their consciences pointed in the same direction. In any event, they are persons who are knowledgeable about politics and they knew, when they made their choice, what the consequences would be if they could not command the support necessary to keep their reputations and prestige intact. To use a common phrase, they put their jobs on the line. They did it intentionally, deliberately and knowingly to achieve a certain end.

Again, I say that we should recognize that. We should not allow ourselves to be diverted from our duty to follow our consciences, in order to rescue those distinguished and honourable gentlemen from any predicament in which they might find themselves.

Of course, they have a very simple remedy, one that is open to any democratic government. All they have to do is say, "Suppose for a moment the bill is not passed in the Senate and those terrible senators defeat our bill. We will go to the public and we will find out who is right." That is the simple answer to the problem, surely? If we believe that the bill is wrong, we should not shrink from our duty of seeing that that particular course is taken. The solution is as simple as the fundamental principle of democracy, and those who place their prestige on the political line know where to go to find out whether the people who elected them are prepared to go along with them. It is as simple as that, and no one can say that it would be a terrible thing for the country.

Senator McIlraith: Would the honourable senator permit me a question?

Senator Smith (Colchester): Certainly.

Senator McIlraith: Does the honourable senator realize that the Leader of the Opposition in the House of Commons also voted on this bill, and would he tell me what kind of an election it would be? My understanding is that the Leader of the Opposition voted for abolition. What kind of an election would it be if both sides are in favour of abolition? I understand the argument he is trying to make in relation to an ordinary bill, but in connection with this particular bill, on which we are being asked to vote, would the honourable senator go a step further and explain how the government will go to the country on this issue if we reject the bill—

Senator Flynn: We have seen that before.

Senator McIlraith: —in view of the position of the Official Opposition and the fact that the Leader of the Opposition in the other place and the Leader of the Opposition in the Senate have said that they support the bill?

Senator Grosart: It is 265 elections, not one!

Senator Smith (Colchester): I have no trouble in dealing with that question. I know very well how the Leaders of the Opposition in this house and in the other place—the former Leader of the Opposition in the other house—voted. I know their beliefs. But they have had to make the difficult choice which the rest of us have to make, which they have made for the time being and perhaps permanently. That is a matter which is of concern to them. But it is the government which has laid its prestige on the line by deciding to vote as a unit.

I mention the point merely because it was raised by Senator McIlraith as a reason for persuading those of us whom he wants to persuade—and that is as many as possible—not to follow our consciences on this particular matter, but that we should have regard for the point he raised, which I find difficult to accept.

I do not see any difficulty about an election. If the government is fortunate enough to have Her Majesty's loyal Opposition and the next major opposition party supporting it, it should not have much fear of an election, should it? It would make an election a simple matter for them, unless the public does not like it—and, after all, even we in the Senate are appointed by elected persons, and ultimately all our positions depend on the views of the people as expressed in the ballot boxes. Therefore I find it a difficult argument to accept.

One honourable senator—an honourable senator apart from the Leader of the Government, whose comments I shall look at in a moment—emphasized, I think correctly, that, to use his exact words, "we must recognize our failure to find new ways of stemming crime." With all the effort I can muster to understand that argument as one which should persuade us to vote for the bill, the logic of it really escapes me, because it seems to me a somewhat strange thing to say that we can help stem crime by making the

penalty for crime less stringent. That viewpoint, in terms of persuasiveness, escapes me.

● (2100)

The Leader of the Government made a very eloquent and vigorous speech, and I certainly compliment him on the eloquence and the vigour with which he delivered it. Even as I listened to him at his most eloquent, I could not escape the thought that such vigour and such eloquence might have been better employed had they been devoted to the plight of the lonely widow whose husband, or the helpless child whose father, had been removed by the murderer. I have not seen much evidence from the advocates of this bill which would indicate to me that that aspect of the problem is receiving the same sort of dedicated attention as the question of what to do with the murderer himself.

I see the Leader of the Government about to ask me something. I shall permit him to do so. I do not mind being asked at the moment.

Senator Perrault: Whatever the honourable senator would prefer. I wanted to ask whether, during the honourable senator's time as premier of that great province of Nova Scotia, he introduced a program of compensation for victims of violent crimes.

I was one of the first western Canadians to advocate that kind of policy on behalf of those injured as a result of violent crimes.

Senator Smith (Colchester): No, I did not, and I did not introduce or support a bill for the abolition of capital punishment.

Senator Perrault: That was not within your purview.

Senator Smith (Colchester): Nor did I advocate such a step.

Senator Grosart: A good answer.

Senator Smith (Colchester): If the Leader of the Government wishes to raise that question, surely he has to recognize that the federal government's first responsibility, having been vested with exclusive jurisdiction in the area of crime, should be to deal with the consequences of crime.

The Leader of the Government emphasized at some length the fact that there is a great deal of violence—and I understood him to mean violence resulting in death—in the State of Israel, a state for which I have a great deal of respect, and that the government of the State of Israel was of the view that nothing would be accomplished in respect of that violence by the introduction of capital punishment. I do not know. I suppose there are two sides to that argument, just as there are to the one in which we are presently engaged. Are they right, or is the prevalence of violence due to the fact that they have not taken this step?

Senator Grosart: A good point.

Senator Smith (Colchester): Who knows? I do not pretend to know, and I do not think the Leader of the Government knows. Therefore, so far as its probative value is concerned, he and I are in the same boat. It really does not help either one of us, or anyone else, in dealing with this matter.

[Senator Smith (Colchester).]

The Leader of the Government went on to say that the state should set an example as to the sanctity with which life should be viewed. Those are his general words; I do not pretend to quote him exactly, but I think that is a fair summary of what he said. I certainly agree with that. But whose life? Only that of the murderer? Whose life? Should not the state be as much concerned with the life the murderer has taken? Surely one cannot deal with this question by saying that the state should set an example in respect of the sanctity of life. That, to me, is something that has no bearing on the argument at all or, if it does have some bearing, something which would lead me to feel that the state should be even more concerned than it is with the sanctity of the life that the murderer has taken and the consequences on the lives of those who were dependent on the continued existence of that life.

The Leader of the Government, in dealing with the proposed punishment of lengthy terms of imprisonment, referred to the convicted murderer having to face the awesome prospect of being incarcerated for a term of 25 years. Certainly, that is not a pleasant prospect to face. I accept that. However, the real question with which we have to struggle is whether that is as awesome a prospect to face as the prospect of being dispatched to eternity at an untimely moment.

The Leader of the Government also made some reference to the prospect of supervised parole, on being released from prison, for the rest of the convicted murderer's life. Really, I do not view that as very much of a deterrent or penalty. If the individual is going to be released on parole at all, he is going to be subject to certain conditions. Notwithstanding those conditions, he would have a great deal of time to himself. Incidentally, he would also have the time and the opportunity to commit additional crimes, if he so wished. Certainly, the parole authority and parole officers are not going to be living with these individuals day in and day out. There would certainly be no lack of opportunity for an individual to return to his criminal proclivities, if that should be his or her desire.

It was also put forward as an argument against capital punishment—or, at least, I assumed it was put forward as an argument against capital punishment—that, according to the statistics, since 1920 only four persons have been convicted of murder a second time. Surely, Senator Molson drew attention to the weakness of that statistic. How many murders were committed by these people? How many people died at their hands? As the Leader of the Government readily recognizes, one of the weaknesses of statistics is that they do not tell the whole truth—not because someone is deliberately trying to falsify them, but simply because it is not possible.

Senator Perrault: I suggested that difficulty.

Senator Smith (Colchester): Yes. I am simply pointing out that such statistics have no probative value at all on either side of the argument. Time and time again, the Leader of the Government made that point.

Senator Choquette: Had those murderers been hanged, they could not have committed a second murder.

Senator Smith (Colchester): Not in this world, anyway.

The argument was put forward that society needs a greater measure of protection against the prospective

criminal, especially against the prospective murderer. I have already made some comments in that regard. Surely, one does not achieve that extra protection by allowing convicted murderers to live. That strikes me as being a strange way of achieving or bringing about additional protection. Then, we must deal firmly with convicted murderers, someone said, and I agree with that. I think that capital punishment is not only a question of dealing more firmly but of dealing conclusively with convicted murderers. I find it hard to reconcile the argument that we have to be firmer and at the same time gentler. I realize that those who put forward that argument are sincerely and honestly convinced that what they say is right, and that they are on the best course in the interests of society as a whole. I grant that at once. However, I find it difficult to reconcile their line of reasoning.

● (2110)

I come now to one of the basic difficulties I find with the views of the government leader, which were, as I said before, presented with such vigour and eloquence. More than once during his speech he said words to the effect that the findings of all those who have tried to gather statistics on this matter, the findings of all those who have tried to discover a means of proving that one course is better than another, have all reached an inconclusive result. I think at one stage his words were, "There is really no proof to support one side of the argument or the other." However, the inference to be drawn from that is another one that escapes me. There is no proof, no conclusive finding, that the absence of capital punishment—I was going to say "political punishment"; it would have been a slip of the tongue, perhaps in some ways an appropriate one—there is no conclusive evidence that we should abandon the course we have been following.

It is true that a lawyer's training and upbringing do sometimes narrow his ability to see things which have no proof, but I had always believed that the burden of proof was not on someone who was arguing to retain things as they are, but rather ought to fall on the person who argues that a change would be better than what we have now. It seems to me a strange reversal of what always looked to me to be an ordinary, sensible, reasonable question, of who should prove what, to say that because there is no proof that a change would be better we ought to change. That does seem to me a little hard to follow.

I suppose what I have said indicates something of the trouble I have with the arguments that are put forward. However, I do not find any necessity to declare how I am going to vote until the time for that decision comes, when I hope that, along with all other honourable senators, I will find the strength of mind, heart and will to follow whatever my conscience requires of me.

In the meantime, I wish only to thank honourable senators for listening to me. I hope I have not been guilty of saying anything inflammatory or unfair. I have certainly endeavoured to avoid those possibilities. Again I thank you, honourable senators, for your courtesy.

Hon. A. E. Haddon Bell: Honourable senators, I know it is getting late and I do not want to keep you, but there are two points that I should like to contribute to the debate.

First, I should tell you that yesterday I was incredulous when I heard that we were going to give Bill C-84 second reading this week, probably pass it and then give it royal assent by Friday. I was incredulous because in this chamber we usually give very thorough scrutiny to legislation. I am not at all convinced that a bill which continuously occupied the other house for months can be accepted so quickly by us. I know we are frightfully clever in this chamber. Nevertheless, there are several questions that come to mind. One, in particular, is the ten-year minimum sentence for a murder that is not premeditated. I feel this is the sort of thing that a Senate committee should examine very thoroughly before we give assent to such a provision.

This bill coming, as it does, at the end of a long session—I believe one of the longest in the history of Parliament—it seems to me that wisdom would suggest that we adjourn second reading, so that agreement could be reached in order that we could proceed with the bill in the new session at the point to which we had progressed at the time of adjournment. I believe other legislation is being proceeded with in this way in the other place, such as the gun law, Bill C-83, and other legislation. I realize that this will not perhaps fit in with the government's plans, and that is unfortunate for the government. However, we did not ask to receive this legislation at the end of this long session, and I put it to you, with all the earnestness I can muster, that we in this chamber are not responsible to the government, we are responsible to the people of Canada.

Coming from the west coast, I feel I have a particular mandate. Although I am an abolitionist and would not like to support capital punishment, to support abolishing capital punishment at this time simply will not do. As soon as our society has reached a level of development when men no longer murder each other, the state will then not need to have a provision for capital punishment in its Criminal Code. As the situation is in our society today, we must retain capital punishment.

We may never have a case go to the courts in which there is no recommendation for clemency; we may never have such a horrible crime committed again, so that perhaps nobody will ever have to be hanged. I hope that is the case. But why not leave the provision in the code in case it is needed?

A great deal has been said both for and against the deterrent effect of capital punishment. All I can say is that nobody has convinced me that capital punishment is not a deterrent. I believe that we have to protect the innocent with all the resources we have in our power. This being one of the reasons for retaining capital punishment, where is the harm in having it remain on the statute books?

Honourable senators, many others have spoken and brought out the relevant points far better than I could, so I will not keep you much longer. However, one or two points were raised which I feel need answering. One was that capital punishment is brutalizing. What is more brutalizing than for the citizenry of a country to become so unsure of its legal system, its jurisprudence and system of protection that the citizens feel they must take the law into their own hands? Surely, that is the most brutalizing effect of all.

There is one other point that I feel is very inconsistent in our approach to this abolition of capital punishment legislation. We have in our laws provision for abortion. I fully

subscribe to the idea that there are times when an abortion must be performed. I feel that our law in this regard is an excellent one. However, where is the consistency between refusing to kill a vicious murderer, who has been found guilty and has no recommendation for clemency, and a law which provides for the killing of an unborn, innocent child? I think we have our priorities a little confused here.

● (2120)

Therefore, although I am an abolitionist at heart, I am not one at this time and will not support the bill tomorrow.

Senator Austin: Honourable senators, may I move the adjournment of this debate?

Senator Grosart: Before you move the motion, which is not debatable, I wonder if I could ask the Leader of the Government what is the time disposition he has in mind for the continuation of this debate? Obviously, Senator Austin wishes to speak on it and I know there is at least one other senator who wishes to do so. We have more or less a firm time schedule, which I am sure we all would like to keep.

Senator Langlois: We have an hour in the morning from 10 o'clock to 11 o'clock.

Senator Grosart: Is it the intention of the government to give priority to the continuation of this debate, in the hope that we may conclude it by 11 o'clock?

Senator Langlois: It will be the first item of business.

Senator Grosart: Is it then the intention that we conclude by 11 o'clock, and that will be the end of the business on the Order Paper? Is that the intention, if we conclude this debate by 11 o'clock? I am asking so we can perhaps arrange our priorities on this side. We are anxious on this side to bring this debate to a conclusion by 11 o'clock, to meet the timetable suggested in the resolution presented by the Leader of the Government.

Senator Langlois: In this respect, I cannot bind the Senate. There are some other items on the Order Paper, and I am in the hands of honourable senators if they want to deal with those items. Pursuant to a motion agreed to this morning, arrangements have been made to have royal assent at 12 noon. We have a very narrow time margin in which to deal with any other business. However, I am in the hands of the Senate.

Senator Flynn: I think the question is whether it is the intention of the government to bring us back, if necessary, next week to deal with any other items on the Order Paper.

Senator Perrault: No, honourable senators, the intention would not be to bring honourable senators back next week.

Senator Choquette: I did not hear that.

Senator Langlois: The answer is no.

On motion of Senator Austin, debate adjourned.

The Senate adjourned until tomorrow at 10 a.m.

THE SENATE

Friday, July 16, 1976

The Senate met at 10 a.m., the Speaker in the Chair.

Prayers.

ENERGY

CONSERVATION OF FUEL—QUESTION ANSWERED

Senator Perrault: Honourable senators, on June 16 Senator Argue asked a question about the conservation of energy and whether the policy of the government is to conserve energy in the use of its automobiles and all automobiles within its control.

In reply, may I say that with respect to the idling of automobiles, on average the fuel consumption, when idling, of warmed-up automobiles is about 0.4 Imperial gallons per hour. This is a significant quantity of fuel and is enough to drive the average North American car about six miles in city driving. Air conditioning does add a significant increase to this fuel consumption, and could be expected to raise this fuel consumption to 0.6 gallons per hour.

The federal government has instituted and given high priority to a strong in-house energy conservation program requiring all departments and agencies to reduce their energy consumption 10 per cent in the fiscal year 1976-77 and to hold at this reduced level for the next ten years. This program involves reducing heating, lighting and air conditioning levels, using more efficient modes of transportation and limiting the use of energy-intensive products. The use of automobiles within the federal government is one of the areas where many agencies can reduce their energy consumption.

FOREIGN AFFAIRS

RESTRICTIONS OF SPECIAL PASSPORTS—SUPPLEMENTARY ANSWER

Senator Perrault: Honourable senators, a question was asked by Senator Grosart on July 13, requiring a further explanation with respect to diplomatic and special passports. Senator Grosart sought an explanation of the statement I made quoting the department to the effect that permits are issued to parliamentarians for the conduct of government business. He said:

> I understand that this is in no way the purpose of these permits, which are stamped over and over again for delegations going to other countries . . .

The Canadian passport identifies the bearer as a Canadian citizen and is issued to facilitate entry to foreign countries. Diplomatic and special passports go a step further and identify the bearer as having a special status in the eyes of the issuing authority. Over 95 per cent of the special passports issued are issued to Canadian government officials and their dependents travelling on official business, which is the reason the statement was made that these passports are normally issued for the conduct of government business. These passports are also issued to parliamentarians identifying them to the officials of the receiving country as having a special status as parliamentarians. It is for the same reason that the passport office, from time to time, inscribes appropriate observations when the bearer has been invited to participate as a member of an official Canadian delegation.

USE OF DIPLOMATIC AND SPECIAL PASSPORTS FOR TRAVEL TO NAMIBIA—SUPPLEMENTARY QUESTION ANSWERED

Senator Perrault: Finally, honourable senators, I come to the supplementary question asked by Senator Grosart, also on July 13, concerning travel to Namibia. The answer to this question is rather lengthy, since it contains comments on the status of Namibia, and with leave of the Senate I will have it placed in the *Debates of the Senate* rather than burden the Senate with an overly long and detailed explanation at this time.

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

Hon. Senators: Agreed.

(*The answer is as follows*):

> As was noted in the preliminary reply to this question, the status of Namibia is a very controversial and indeterminate one at this time. Essentially, the problem is that, while the United Nations (and Canada) has declared that the South African administration of the territory is illegal, and that responsibility for the territory rests with the United Nations, the South African government refuses to accept this position and continues to administer the territory.
>
> Honourable senators will probably recall that Canada formally declared, in July, 1971, its acceptance of the 1971 advisory opinion of the International Court of Justice to the effect that the continued administration of Namibia by South Africa was illegal. This opinion, I might note, also declared that states (such as Canada) were "under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the government of South Africa implying recognition of the legality of, or lending support and assistance to, such presence and administration." As a consequence of accepting this advisory opinion, the Canadian government does not maintain any diplomatic, commercial or consular facilities in or for Namibia, and Canadians who wish to travel to the territory do so at their own risk.
>
> It is in the light of this position of the government, and in view of the continued illegal administration of

the territory by South Africa, that the government has decided that diplomatic and special passports cannot be used for travel to Namibia. It might be useful to emphasize that the Canadian government not only does not recognize the present *de facto* administration of the territory, but has formally declared it to be illegal. Viewed in this context, I hope that honourable senators will accept that the Canadian government is anxious to avoid any official action which might be interpreted as implying acceptance of this illegal administration, as would be the case, the government believes, if the government were to permit the use of diplomatic or official passports for travel to Namibia.

In response to the honourable senator's comments regarding South Africa, it should be noted that Canada continues to maintain diplomatic relations with South Africa and, therefore, the use of diplomatic and official passports in that country is not subject to the same restraints as are applied in the case of Namibia.

CITIZENSHIP BILL

SUGGESTED REFERRAL OF CLAUSE 33 TO SUPREME COURT

Senator Flynn: Does the Honourable the Leader of the Government have an answer to my question about the referral of clause 33 of the Citizenship Bill to the Supreme Court?

Senator Perrault: Honourable senators, as yet I have had no positive response from the government on that point, but it has been made, the question has been posed, and a commitment has been given by the Minister of Justice that consideration will be given to all of the recommendations.

Senator Flynn: I hope the clause will not be proclaimed for some time.

TRANSPORTATION

PACIFIC WESTERN AIRLINES—POSSIBLE MOVE OF HEAD OFFICE TO CALGARY

Senator Austin: Does the Honourable the Leader of the Government have a reply for me to my question about provincial ownership of interprovincial airline services, and in particular, PWA?

Senator Perrault: Well, this morning I can only say on behalf of the government that the government is very concerned about the Pacific Western Airlines case and is giving consideration to the course of action, including possible legislative action, that it might be appropriate to take, as well as giving consideration to the larger question, which is the ownership of regional airlines by provinces in the context of the federal government's constitutional responsibilities in connection with aeronautics in this country. The government is most concerned about the situation.

● (1010)

CRIMINAL LAW AMENDMENT BILL (NO. 2), 1976

VOTING PROCEDURE

Senator Molson: Honourable senators, I should like to ask the Leader of the Government a question about the vote that is to take place this morning. I know it was declared as a free vote in the House of Commons by the Prime Minister, but I do not know what the practice is in the Senate. Will senators of all parties be free to vote according to their conscience?

Senator Perrault: Honourable senators, I have always felt that votes in this chamber traditionally are free votes and votes of conscience.

Senator Molson: I won't ask any further questions in that regard.

SECOND READING

The Senate resumed from yesterday the debate on the motion of Senator Lang for the second reading of the Bill C-84, to amend the Criminal Code in relation to the punishment for murder and certain other serious offences.

Hon. Jack Austin: Honourable senators, emotion grips me as I rise to participate in this debate on the abolition of capital punishment. We are not only deciding about laws, which in itself represents a momentous enough event, but in this instance about lives. In our society, and rightly so, nothing is more cherished than the right to life. It is the first right in any list of human rights.

I am emotional in a real way, too, about the right to life in another sense. In choosing to save the life of a convicted murderer, do we impose upon society, on ourselves, the risk that such a person when released will return to murder again? By not taking his life, do we encourage others in society to believe that "the price is right" if they decide to commit murder? Believe me, it is the innocent I am concerned about and not the criminal. Our families, our neighbours, our communities, those who make a constructive contribution to society are our first concern. Are we trading their lives for a misbegotten compassion for the criminal, however pathetic his story?

I have listened to all the debates, all the arguments here and in the other place, in the media and in the gathering places of my community. I have agonized in public and in private. I spent an afternoon in Invermere, British Columbia, with 60 citizens of that community publicly reviewing the pros and cons of this dreadful decision. Finally, I have concluded that this bill does nothing to add to public risk. The evidence does not support the argument that it will encourage individuals in society to take more lives. On the other hand, I see nothing to convince me that this bill alone will result in an early reduction in the number of deaths by murder in our society.

But I will not support the taking by the state of human life for nothing—for no clearly demonstrated public good. I cannot support the argument of some senators in this debate that lives should be taken until those who would change the law can demonstrate that the law needs change. That may be the correct premise for most lawmaking in our society, but surely not with the taking of life. Surely, those who would take life have the onus of proving it has a public advantage attached to it.

I try to still my emotions to think through the implications of this issue and I tremble. I know that if a child of mine, or anyone I knew and personally cherished, were murdered or even carelessly lost by the actions of some fool, I would swell up with anger. I would hate. I would

seek revenge. But it is precisely in those circumstances that I am disqualified to judge what is the right way for civilized man to build his society, to perpetuate humanity, to reach for God's hand in the stars.

Humanity has had a long struggle to come to this point. We have done so because in the war between our emotional nature and heritage and our intellectual gift the latter has just barely been able to override. Our system of laws, this sweet process of reason over emotion, debate over warfare, decision in Parliament and the courts over victory in battle, has been and is our proudest achievement as mankind—not scientific advance, not art, music or publishing, Canadian or American, however great they may be. When I am vengeful I will remember none of this. Do not let me be judge and jury in my own cause. When I am not vengeful, reason with me as we do today.

I believe the Prime Minister, speaking in the other place, put the matter before us correctly and I adopt his arguments by reference here. Canadians have had a good debate. Everything on every side that can be said has been said. It is time to decide and to set in place the process of future trial and error which will tell us whether today we are right or wrong in what we do.

Two points raised by honourable senators in the debate last evening must be touched on by me, although they do not relate directly to the bill itself. My colleague, the senior senator from British Columbia, Senator Bell, asked this chamber to delay its consideration of this bill until fall. She said we should not hurry such a vital matter. Honourable senators, we have been a long time debating and deciding. Each of us all of our lives has lived experiences which today will lead us to our respective conclusions. The country has had 10 years of debate; the other place months of it. In the Senate we have three times debated this matter. Bill S-21 was introduced on December 19, 1974, and there were 17 speakers before the bill was withdrawn on February 5, 1976. Bill S-23 was introduced on March 13, 1975, and there were five speakers, the bill remaining on the Order Paper. Bill C-84 has been spoken to by 25 senators before my speech. I know that all senators have been conscientious in following this issue. It is time to settle the matter and lift the burden of it from the community.

Senator Molson referred last night to the dilemma for all of us posed by the choice between our knowledge, our experience, our judgment and our conscience on the one part and our awareness of the public attitudes, which at this time seem to favour continuance of the present law. We are not the rubber stamp of the House of Commons. Equally we are not the rubber stamp of the Gallup Poll. If we are democratic political leaders, then we must lead where we believe the people must go in the interest of all of us and we must tell the people why we so believe.

Senator McIlraith put it best last evening when he said that within three, four or five years the people will see that abolition was right.

I conclude, honourable senators, in the knowledge that each of us will make his or her decision out of honest conviction.

Hon. Allister Grosart: Honourable senators, I have not spoken previously in the chamber or in committee on the subject of capital punishment. As is the case with many senators, this is my first speech on this subject. I need hardly say that I have listened with interest and instruction to the speeches which have been made in this chamber on at least three occasions, including the present debate. As Senator Austin just remarked—his count is not quite the same as mine—I take him to have been the twenty-fifth speaker during this debate and I am the twenty-sixth. This leads me to say that this has been in my view, without the risk of being accused of gratuitous comment, an excellent debate on both sides. The points of view have been put forward. I have, as have Senator Austin and all other senators, had some difficulty in making up my mind as to the proper course of action for the Senate and the Parliament of Canada to take with respect to this bill. I have read much of the literature on the subject and it has not convinced me fully that either side is completely right as to this question of abolition or retention of capital punishment. I was very interested when Senator Lang was chosen as the sponsor of the bill, for I have great respect for Senator Lang and I had hoped that he would convince me that I should vote for the bill. I say that because I think my natural instincts are those of an abolitionist. I am against killing and cruelty, not only in connection with our own animal species but all animal species.

● (1020)

Those being my instincts, I should explain why I am going to vote against the bill and why and under what circumstances I am a retentionist at the moment.

It is a very difficult decision to make, in view of those who take the opposite stand. One has to consider the fact that the entire cabinet decided to introduce the bill, and more than half the members of the House of Commons voted in favour of it. The leader of my own party, and parties other than the party in office, voted in favour of the bill. In the Senate, of course, some of my own colleagues, including my own leader, have announced that they will vote in favour of the bill. On the other hand, practically the same number of members of the House of Commons decided the other way, and the majority of my own colleagues on this side of the house will vote the other way, according to the announcements they have made.

I was particularly impressed yesterday when three former provincial premiers, by coincidence one after the other, rose and found themselves compelled to say that they would vote against the bill. I do not know whether that has any particular significance. Perhaps it has, because we are all familiar with the statement that government is usually best when it is closest to the people.

In reaching a conclusion, I asked myself this question: what is the essential purpose of the bill? I reached the conclusion that its purpose is to reach a statutory decision as to the legislation most likely to reduce the incidence of murder and the killing of individuals by the state or its agents.

I put the two together because, particularly in the matter that was raised by Senator Asselin, and which was commented on by others, it seems to me that it is quite possible that the bill will defeat its own purpose in the second part of that purpose which I indicated. I am impressed with the particular argument that it may lead to more taking of life by the state—that is, by its agents.

Senator Asselin described the measure as increasing the possibility of sidewalk and prison corridor killings. We are all aware of the frustration among the police forces of this country, and others, about what is, in their opinion, inadequate handling of the charges they lay in cases of alleged murder.

So I say it may well be that this bill will result in more killings of suspected murderers or suspected criminals of every kind, and in this case without trial. That is one of the concerns I have about this bill.

Understandably, much of the emphasis in the discussion here and elsewhere has been on the matter of deterrence. That is understandable, because, of course, if it could be proved conclusively one way or the other that capital punishment would or would not deter additional murders, then the issue, to my mind, would be fairly well decided by the evidence.

Senator Perrault gave us a good deal of evidence on the matter. It has surprised me that the argument made by others, that it is not a deterrent, is that almost invariably everyone agrees that there is no conclusive evidence that capital punishment does, in fact, deter prospective murderers. On the other hand, Senator Perrault—he was particularly obvious in this type of argument—and others continued to quote statistics on the matter. I recognize that some of the material in the speech the leader made came from different sources, which may explain some of the apparent contradictions in his argument. I agree that there is no conclusive evidence that capital punishment will or will not deter. However, I do not think the whole question hangs on that. There are other reasons for capital punishment, punishment itself being one. It does not concern me to say that the state should not punish, that there is something immoral about punitive measures taken by the state. The essence of the Criminal Code is punishment for crimes committed.

There is the element of preventing further murders by the convicted murderer. We know that there have not been cases of second murders committed by convicted murderers following release from jail. Someone put the figure at five, but that is hardly conclusive. There is also the matter of other serious crimes, such as rape, that are abhorrent to us, committed by released murderers.

The essential element, of course, has to be the protection of society and, perhaps more important—and I place great stress on this—the assurance to society that the state itself is prepared to take extreme measures to meet extreme violence such as murder.

One of the main reasons I will vote against this bill is, of course, the evidence that Canadian society is not now assured that the state is prepared to take the necessary measures to meet its view of the seriousness of the crime of murder. I am not one who would say that in all cases we should vote exactly in line with what we view as the thinking of the people as a whole. On the other hand, when we have evidence that 78 to 80 per cent of Canadians are opposed to the action we are asked to take in supporting this bill, then I am concerned. Surely, what democracy is all about, what representative parliamentary democracy is all about, is the election of members of Parliament—and the appointment of other members of Parliament—to give effect to the demonstrated will of the public.

[Senator Grosart.]

It is, of course, true to say that any government has an obligation to attempt to lead public opinion into those approaches to problems which it believes to be correct. The fact of the matter is that the government has, in this case, tried hard, over a long period of time, to lead public opinion to its viewpoint on the question of capital punishment, and it has failed. It has tried over a long period of time, and has failed. I cannot support a government bill which flies in the face of public opinion, as this one does.

I listened with great interest to the honourable sponsor of the bill, Senator Lang, for various reasons. He gave us his well thought-out reasons for his support of the bill. I went down them one by one and asked myself whether I could accept those reasons for supporting the abolition of capital punishment.

● (1030)

The first reason he gave was that there was no evidence that capital punishment is a deterrent. I have expressed my views on that, but I am myself moved by the fact that the police forces of this country do believe it is a deterrent, and that would be my second reason for opposing the bill. The police are those who are closest to this problem. I was in my youth at one time a police reporter—not only a police reporter but a night police reporter—and I can well understand why the police in general are inclined to believe that capital punishment is a deterrent. I am not saying, as I have indicated, that there is proof, but I am impressed with the fact that almost unanimously—not quite, but almost unanimously—the police associations of this country are in favour of the retention of capital punishment.

The next question I have asked, without obtaining a satisfactory answer is: If there is to be so much stress on deterrence, why do we put people in jail? Why do we imprison them? Surely, the purpose is to deter others from committing the same crime. Yet the Leader of the Government gave us an indication that something like 80 per cent of those who are imprisoned repeat their crime. So imprisonment is not a deterrent.

What is a deterrent? One of the finest speeches that I have heard on the subject was delivered in this house in 1973 by Senator Hastings, who unfortunately is not with us. On inquiry I find that he is recovering from his illness, and I am happy to know that that is so. Senator Hastings is the most outright abolitionist I have ever known. He began his speech by saying:

> In reaching my own conclusion, I have the advantage—some may regard it as a disadvantage—of knowing, as friends, approximately 30 men who are the subject matter of the bill; that is to say, 30 men who have been convicted of capital and non-capital murder and who are in custody or out of custody at the present time.

Senator Hastings convinced me, at least, that convicted murderers can be rehabilitated, and in my view—although strangely enough it was scarcely mentioned in this debate—that is the strongest possible argument on the side of the abolition of capital punishment.

However, Senator Hastings then went on to say that imprisonment was not the answer. Yet imprisonment is the answer suggested in this bill. Senator Hastings gave some

alarming figures three years ago from a report which gave the following information, according to a study by Dr. Carlson of the Guelph Correctional Centre:

> The study shows that of the 1,070 prisoners he followed after their release, 686 had been reconvicted by 1971; almost a third of that number were back in jail within six months; more than half were serving new sentences within a year of their release; two-thirds had been reconvicted within 18 months, and within two years, three-quarters had been found guilty of a new offence.

It is thus clear that imprisonment does not appear to be effective in the rehabilitation of prisoners. The study also proved that it is not a deterrent.

What is the answer? Some honourable senators have suggested—and I agree with them—that we need a complete shake-up in our whole punishment system, our penal and reformatory systems. But this has been going on for years, and as far as I can see the situation is getting worse. Senator Lang suggested that one of the reasons he was against capital punishment was on the grounds of it being "cruel and unusual punishment." With respect to him, that is merely parroting a phrase that in my view has no reference here whatsoever. Certainly, capital punishment is not an unusual punishment. It has been going on for years. It is the very opposite of cruel. It could very well be argued that it is more cruel to put someone in jail for 25 years than to put an end to his life. He suggested that he might be taking this position because capital punishment was immoral. With respect, I think that also begs the question completely.

On both sides, the retentionists and the abolitionists are just as much concerned with the morality of government action. It would seem strange to me for anyone to suggest that there is something immoral in the state punishing a criminal.

He also said that another possibility was that capital punishment degrades and corrupts society. I am not concerned with that in any way myself. This is a society which permits and encourages violence and pornography. The degradation and corruption of society by that permissiveness at the government level, the Parliament level, in my view, is far, far greater than any possible degradation that may occur from the hanging of a convicted murderer in certain circumstances.

He also mentioned senseless vengeance. I reject that concept entirely. In our jurisprudence today, there is no suggestion anywhere that capital punishment is in any way an act of vengeance by society. Of course it is not. Yet we hear such phrases being used in this debate, and capital punishment has been described as a "basic animal instinct." Of course it is not. Other words used to describe capital punishment were "naked, raw violence by the state." Of course it is nothing of the kind.

I have come down on the side of retention in part because of the extremist rhetoric on the other side. When I hear extremist rhetoric I usually reach the conclusion that the argument itself is bad.

Senator Lang said that capital punishment militates against convictions, that juries are at times reluctant to convict when they know or suspect that the result of their verdict may be the taking of human life. I agree with that. I think there is no question that that has happened. On the other hand, it has been a very difficult decision for juries to make and for judges to make, but they have made them. Although I have considerable sympathy with any member of cabinet who has to make that awful decision, I have no sympathy with cabinet rejecting that responsibility which cabinet itself has placed on judges and juries.

One of the main reasons, in my view, why the public has not been convinced that the abolition of capital punishment is the proper course to take is the way the government is handling it. Surely, confidence in law and order was not increased in this particular area when the Solicitor General, the one responsible for law and order in this particular area, said that he would not recommend approval by the cabinet of a decision of a judge and jury for capital punishment.

Some may say that is not what he said. He actually said that he would resign from the cabinet if the sentence were not commuted. It is, of course, the same thing because he could hardly put himself in the position of resigning if he recommended it. I believe that certainly shook the confidence of the public.

The same may be said of the Prime Minister's statement: "If this bill is not passed, some people will hang." What he was saying, of course, is "I will hang." Because the decision, in the final analysis, would be his. "I will hang despite Parliament." That is all it could be because for 14 years all the sentences have been commuted. Suddenly the Prime Minister says, "If Parliament does not agree with me, some people will hang." That did not help convince the public that the government was taking the kind of attitude toward this problem that would lead to an improvement in the law and order situation of this country.

● (1040)

Naturally, I am also very concerned with the great problem that death is so final—the problem of the possibility of the hanging of an innocent man. There is no question that that is something which would lie on my conscience if I were a juror, a judge or a member of the cabinet. But we all have difficult decisions to make, many kinds of decisions, in life, domestic life, and merely the fact that one innocent man might be hanged would not convince me that that is a good reason for abolishing capital punishment.

Honourable senators, we are shortly to vote on second reading of this bill. It is of interest to me that the debate has been so widely participated in. I believe I am the twenty-sixth speaker, and I think it is of great credit to the Senate that we have taken this time. We have heard more speakers in a fairly short time than could hardly have been possible in the House of Commons. I hope there will be no comments in the press that we rushed this bill through. It has certainly not been rushed through.

It is interesting to note, although I do not think it will be reflected in the vote, that some 15 senators have spoken against the bill while 11 have spoken in favour of it. That count indicates that this is a matter on which we are divided and on which none of us should take the position that he is necessarily right and others are necessarily wrong.

Hon. Norman McL. Paterson: Honourable senators, I rise because I am convinced that capital punishment is a deterrent. To my mind, most murderers are cowards. I want to stand and be counted against abolition.

I have in mind that by abolishing the death penalty we are simply giving those who have murdered a good chance to do it again.

Put yourself in the place of the two widows in Moncton who were left with families to raise and children to feed while worrying about the cost of living. And yet we put those two cowardly birds in prison, possibly for the rest of their lives, where they will have no dishes to wash, no cost of living to worry about, nice beds to sleep in, no leaky roofs to mend and no grass to cut at home. They will just have a lovely, easy time of it for the rest of their lives, and they can shove a knife into any guard they dislike without further penalty.

I have expressed myself, and now I will stand and be counted.

Hon. H. Carl Goldenberg: Honourable senators, I realize that the time is almost eleven o'clock, and the resolution, as I recall it, stated that the debate would conclude at approximately eleven o'clock. I would take just a few minutes, but I will not even begin if honourable senators feel I should sit down at eleven o'clock. If they are prepared to give me a few minutes extra, I will speak.

Hon. Senators: Go ahead.

Senator Goldenberg: Honourable senators, my intention is to comment briefly on one or two considerations which have been raised in the course of this debate. First, there is the repeated reference to public opinion polls which show that a majority of those polled favour retention of the death penalty. It is argued in consequence that Parliament must act accordingly; in other words, Parliament should follow the polls. This, of course, is not the principle on which our parliamentary system operates. We do not operate government by referendum—and the polls, in any event, are not a referendum.

Let me point out that the Parliament of the United Kingdom, from which we take our lessons in parliamentary government, does not accept the proposition that it must follow the polls. In the past few years there appeared to be just as strong a demand for the restoration of capital punishment which had been abolished in the United Kingdom, but the Parliament at Westminster did not feel bound by that. It rejected the proposal by a formal vote, and capital punishment has not been restored.

I have learned that a similar "strong demand" made itself felt in West Germany but that the Bundestag resisted it, and capital punishment has not been restored in that country despite the increase in acts of terrorism.

Another consideration raised in the course of this debate is whether or not death, as a penalty, is a greater deterrent than the threat of long imprisonment. On this aspect I should like to quote the conclusions of an authority, Charles L. Black, Jr., Professor of Jurisprudence at Yale University, who, in his book *Capital Punishment*, published in 1974, says:

> I think the answer has to be that, after all possible inquiry, including the probing of all possible methods of inquiry, we do not know, and for systematic and easily visible reasons cannot know, what the truth about this "deterrent" effect may be. We know that, on raw data, there has been somewhat more homicide in capital punishment states than in non-capital punishment states. But we cannot draw any valid conclusions from this, for factors other than the punishment system may easily explain the difference.

On the same point I refer again to the United Kingdom where the Royal Commission on Capital Punishment almost 20 years ago reported:

> The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate or that its introduction has led to a fall.

I submit, honourable senators, that if retention of the death penalty is justified, it follows that it must be justified on grounds other than its deterrent effect, because this effect, the deterrent effect, cannot be proven.

Last night in his speech in favour of restoration of the death penalty, Senator Molson—

Senator Flynn: Did you say "restoration"?

Senator Goldenberg: I used the term "restoration" because there has been no death penalty carried out for so many years, but I am prepared to call it "retention." It is still on the statute books.

Senator Asselin: That is much better.

Senator Flynn: Very good.

Senator Goldenberg: I will say that Senator Molson, in his speech in favour of retention, referred to the gangland murders in Montreal. Now, as a resident of Montreal, I can confirm that he painted a true picture of a serious situation which is causing great public concern there. But Senator Molson failed to show how retention of the death penalty would solve that particular problem, especially, as he admitted in answer to Senator John Macdonald's question, since the mass murderers in the two specific cases of which he spoke had not been found, except perhaps one.

● (1050)

Senator Molson: It was 50:50, I think.

Senator Goldenberg: Well, most of them were certainly not found.

Senator Molson: You are drawing conclusions.

Senator Goldenberg: One of them was found dead. He had already been killed.

For clarification of this particular point let me quote from the experience of one of Canada's great criminal lawyers, Mr. Arthur Maloney, Q.C., now the Ontario Ombudsman, and who was formerly in the House of Commons with some honourable senators here. This is what Mr. Maloney says on this point:

> What then do those well-motivated retentionists expect as a result of the restoration of a penalty that has not been carried out in Canada since 1962? What is it that is then supposed to occur? I suppose the answer that would be given to me would be that the crime of murder would be eliminated or at least its incidence would be drastically reduced. That assumes, first of

> all, that all murderers will be caught. In fact a very large number of them will not be found out at all. By a stroke of incredible good fortune, as their peers are hanged, they will get away with it. That is the first stage at which the inequality of the death penalty is made manifest. You see all murderers who plan their crime as opposed to those who kill on the sudden, in a crime of passion setting, know that they won't get caught. The death penalty holds no fear for them, and for those who commit a crime of passion—why it has never even entered into their minds.

And so, on the basis of his experience over 33 years as one of Canada's leading criminal lawyers, Mr. Maloney would not agree with the view that retention or restoration of the death penalty will reduce the incidence of murder by organized crime. There must be other methods for dealing with this.

You will notice, honourable senators, that Mr. Maloney was describing what he calls "the inequality of the death penalty," arising from the fact that many murderers are never caught. I hope you will bear with me if I read to you what he describes as the second stage of the inequality of the death penalty, and this is something we must bear in mind before we vote today. Here is what Mr. Maloney says:

> But for those who are caught, now follows the routine procedure of investigation, of arrest and of charge. . . . A conscientious policeman, let us say, in any one of our provinces, interested in justice will conduct a detailed enquiry in the course of which facts will come to light that alter the complexion of the crime, so that when the crown attorney comes to view the case, he may be called upon to conclude that this charge may not be murder at all; instead, it will be manslaughter. Besides the crown attorney being human, he may cringe at the thought of laying a charge that might result in an execution and would never dream of doing so unless the facts clearly and unambiguously demand it. But, alas, the same case occurs in another part of the country—a less dedicated policeman unearths the facts less scrupulously. A hard-nosed crown attorney views them more harshly and with a firm conviction that unless we hang a few fellows now and then crime will destroy us all, and as a result this time a charge of murder is laid. This is the second stage in inequality that emerges. Human variables such as the policeman's attitude, the crown attorney's outlook . . . intervene to bring about unequal justice or injustice as the case may be.

Mr. Maloney points to the potential for injustice in these words and please bear them in mind, honourable senators:

> Men tried in one part of the country are found guilty and sentenced to die because of the judge chosen to try them, the crown attorney chosen to prosecute them, and the defence counsel picked to defend them; and their peers in crime in another part of the country, who did neither more nor less, are found guilty of manslaughter only, or acquitted altogether because they got a better deal of the cards.

Arthur Maloney concludes:

> Imagine what a difference in result from case to case, from court to court, from province to province, from city to city. The potential for injustice, incorrectible, irretrievable injustice, meted out more often than not to the poor, the defenceless, the deprived, the abandoned of our society—

In the same vein, Professor Black, whom I have already quoted, asserts:

> We do not and cannot administer the penalty of death without arbitrariness and mistake.

Honourable senators, for these reasons, among others, I shall vote for the bill.

The Hon. the Speaker: It is moved by the Honourable Senator Lang, seconded by the Honourable Senator Petten, that this bill be now read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Since there appears to be some uncertainty, those in favour of the motion will please say "yea".

Some Hon. Senators: Yea.

The Hon. the Speaker: Those against the motion will please say "nay".

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "yeas" have it.

And more than two honourable senators having risen.

The Hon. the Speaker: Please call in the senators.

• (1100)

Motion of Senator Lang carried on the following division:

YEAS

Honourable Senators

Argue	Goldenberg
Austin	Graham
Barrow	Greene
Basha	Lafond
Buckwold	Lamontagne
Cameron	Macdonald
Carter	Macnaughton
Connolly (Ottawa West)	McElman
	McGrand
Côté	McIlraith
Cottreau	McNamara
Davey	Michaud
Deschatelets	Neiman
Flynn	Norrie
Forsey	Perrault
Fournier (Restigouche-(Gloucester)	Petten
	Stanbury
	van Roggen
	Yuzyk—34.

NAYS

Honourable Senators

Asselin	Grosart
Beaubien	Langlois
Bélisle	Lawson
Bell	Lefrançois
Bourget	Manning
Denis	Molson
Eudes	Paterson
Everett	Phillips
Fournier (Madawaska-Restigouche)	Robichaud
	Smith (Colchester)
Fournier (de Lanaudière)	Sparrow
	Williams—22.

The Hon. the Speaker: Honourable senators, I declare the motion carried.

Senator Hicks: Honourable senators, I was paired with the Honourable Senator Lang. Had I voted, I would have voted against the motion.

Senator Molgat: Honourable senators, I was paired with the Honourable Senator Hayden. Had I voted, I would have voted in favour of the motion.

Motion agreed to and bill read second time, on division.

THIRD READING

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

Senator Perrault: Honourable senators, with leave of the Senate, I move, on behalf of Senator Lang, that this bill be read the third time now.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Perrault, seconded by the Honourable Senator Lamontagne, that this bill be now read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

● (1110)

Senator Davey: Honourable senators, I rise on a point of privilege. My attention has been drawn to Senate *Hansard* of Thursday, July 15. I wish to apologize to the Senate for my absence on the third reading of Bill C-58 which, of course, I sponsored. I thank my colleague, Senator Lang, the sponsor of *this* bill, for drawing my absence to the attention of the Senate.

Hon. Senators: Hear, hear.

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

Some Hon. Senators: On division.

Motion agreed to and bill read third time and passed, on division.

Senator Flynn: Honourable senators, I suggest that it be deemed that a recorded vote on third reading would have been the same as that on second reading.

Hon. Senators: Agreed.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

GOVERNMENT HOUSE
OTTAWA

July 16, 1976

Madam,

I have the honour to inform you that His Excellency the Governor General will proceed to the Senate Chamber today, the 16th day of July, at 12.00 noon for the purpose of giving Royal Assent to certain bills.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière
Administrative Secretary
to the Governor General

The Honourable
The Speaker of the Senate,
Ottawa.

The Senate adjourned during pleasure.

● (1200)

ROYAL ASSENT

At 12 noon His Excellency the Governor General proceeded to the Senate chamber and took his seat upon the Throne. His Excellency was pleased to command the attendance of the House of Commons, and, that House being come, with their Speaker, His Excellency was pleased to give the Royal Assent to the following bills:

An Act to amend the Criminal Code in relation to the punishment for murder and certain other serious offences.

An Act to amend the Income Tax Act.

An Act to amend the Medical Care Act.

An Act respecting citizenship.

An Act to amend the Canadian Wheat Board Act (No. 2).

The House of Commons withdrew.

His Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

● (1210)

ADJOURNMENT

Leave having been given to revert to Notices of Motion:

Senator Langlois: Honourable senators, I move, seconded by the Honourable Senator Bourget, with leave of the Senate and notwithstanding rule 45(1)(g), that when the Senate adjourns today it do stand adjourned until Tuesday, October 12, 1976, at 11 o'clock in the forenoon.

Senator Lawson: Before the question is put, I wonder if I might ask a question of the deputy leader. If my calendar is correct, October 12 is a Tuesday, which would mean those of us coming from some distance and wishing to be here for an 11 o'clock sitting on October 12 would have to travel on Thanksgiving Day.

Senator Langlois: Arrangements have been made to reconvene at that date and time, so I am afraid those coming from a distance and wishing to be here will have to make arrangments to travel on Thanksgiving Day.

Motion agreed to.

The Senate adjourned until Tuesday, October 12, at 11 a.m.

THE SENATE

Tuesday, October 12, 1976

The Senate met at 11 a.m., the Speaker in the Chair.

Prayers.

PROROGATION OF PARLIAMENT

NOTICE

The Hon. the Speaker informed the Senate that she had received the following communication:

GOVERNMENT HOUSE
OTTAWA

September 29, 1976

Madam,

I have the honour to inform you that the Right Honourable Bora Laskin, P.C., Chief Justice of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber at 11.00 a.m. on Tuesday, October 12th, for the purpose of proroguing the First Session of the Thirtieth Parliament of Canada.

I have the honour to be,
Madam,
Your obedient servant,
Edmond Joly de Lotbinière
Administrative Secretary to
the Governor General.

The Honourable
The Speaker of the Senate,
Ottawa.

DOCUMENTS TABLED

Hon. Senator Langlois tabled:

Report of the Agricultural Products Board for the fiscal year ended March 31, 1976, pursuant to section 7 of the Agricultural Products Board Act, Chapter A-5, R.S.C., 1970.

Report of the Agricultural Stabilization Board for the fiscal year ended March 31, 1976, pursuant to section 14 of the Agricultural Stabilization Act, Chapter A-9, R.S.C., 1970.

Report of the Economic Council of Canada, including its financial statement certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 21(1) of the Economic Council of Canada Act, Chapter E-1, R.S.C., 1970.

Capital Budgets of Eldorado Nuclear Limited and Eldorado Aviation Limited for the year ending December 31, 1976, pursuant to section 70(2) of the Financial Administration Act, Chapter F-10, R.S.C., 1970, together with copies of Order in Council P.C. 1976-1986, dated August 5, 1976, approving same.

Copies of Orders in Council P.C. 1976-1910 and P.C. 1976-1912, dated July 27, 1976, amending Part II of the Schedule to the Hazardous Products Act, pursuant to section 8(3) of the said Act, Chapter H-3, R.S.C., 1970.

Report of the Auditor General on the examination of the accounts and financial statements of the National Battlefields Commission for the fiscal year ended March 31, 1976, pursuant to section 12 of An Act respecting the National Battlefields at Quebec, Chapter 57, Statutes of Canada, 1907-08, and sections 75(3) and 77(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report of the Northern Canada Power Commission, including its accounts and financial statements certified by the Auditor General, for the fiscal year ended March 31, 1976, pursuant to section 24 of the Northern Canada Power Commission Act, Chapter N-21, and section 75(3) of the Financial Administration Act, Chapter F-10, R.S.C., 1970.

Report of the Department of Public Works for the fiscal year ended March 31, 1976, pursuant to section 34 of the Public Works Act, Chapter P-38, R.S.C., 1970.

Report on operations under the Regional Development Incentives Act for the months of March, April, May and June, 1976, pursuant to section 16 of the said Act, Chapter R-3, R.S.C., 1970.

Copy of Proceedings of the Royal Society of Canada, 1975, together with a copy of the 1975-76 Calendar and a copy of the Report of Council containing the financial statements of the Society for the year ended February 29, 1976, and the auditors' report thereon, pursuant to section 9 of An Act to incorporate the Royal Society of Canada, Chapter 46, Statutes of Canada, 1883.

Statement of expenditures and financial commitments made under the Veterans' Land Act for the fiscal year ended March 31, 1976, pursuant to section 49 of the said Act, Chapter V-4, R.S.C., 1970.

Report of the Atomic Energy Control Board of Canada for the fiscal year ended March 31, 1976, pursuant to section 20(1) of the Atomic Energy Control Act, Chapter A-19, R.S.C., 1970.

Report of operations under the Canada Water Act for the fiscal year ended March 31, 1976, pursuant to section 36 of the said Act, Chapter 5 (1st Supplement), R.S.C., 1970.

The Senate adjourned during pleasure.

PROROGATION SPEECH

The Right Honourable Bora Laskin, P.C., Chief Justice of Canada, Deputy of His Excellency the Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Right Honourable the Deputy of His Excellency the Governor General was pleased to close the First Session of the Thirtieth Parliament with the following speech:

Honourable Members of the Senate:

Members of the House of Commons:

The First Session of the Thirtieth Parliament was opened on September 30, 1974. In the 744 days since the opening, the Senate has met 216 times and the House, 343 times. Both in terms of the amount of elapsed time and the number of sittings of each House, this has been, by far, the longest session in the history of the Parliament of Canada. In terms of public legislation, this has been our most productive session, although, if examined on a yearly basis, the pace of legislation has been at the rate that has come to be normally expected in the last two decades.

The principal direction of the legislation enacted during this session has been toward the reasonable development and the just and equitable sharing of the great riches of our land. In addition to several important fiscal measures that have been passed, Parliament has put into place a program to combat inflation so that Canadians may indeed reap the benefits of their own productivity. As part of this program the Government has imposed upon itself a policy of restraint in the growth of its own expenditures and Parliament, as part of this program, has enacted alterations to such statutes as the Medical Care Act and the Unemployment Insurance Act.

At the same time, Parliament has not been unmindful of the need for continuing growth of the economy and has amended the Export Development Act and created the Federal Business Development Bank. The orderly development of business will be assisted by the enactment of the Canada Business Corporations Act and healthy competition in the free market will be stimulated by the amendments to the Combines Investigation Act.

In both economic and social terms, housing has been of great concern during this session and you have twice amended the National Housing Act and related statutes.

Energy resources are central to the development of the nation. This has led to the enactment of the Petroleum Administration Act and to the creation of Petro Canada.

Agriculture has been of major concern to you during this session. You have enacted a measure to provide for two price wheat and you have passed the Agricultural Stabilization Act and the Western Grain Stabilization Act. You have made important amendments to the Farm Credit Act and to the Canadian Wheat Board Act as well as to several other statutes of great importance to the farmers of this country.

Several measures have been enacted to strengthen our social security system. You have improved the benefits of the Canada Pension Plan and the Old Age Security Act. Amendments to the statute law with regard to superannuation have been enacted. The services of those who fought for our country have been remembered in amendments to the laws relating to veterans' and civilians' war allowances, veterans' and returned soldiers' insurance, and to the compensation for former prisoners of war.

The institutional framework of Government has been a significant concern in this session. Parliament has enacted statutes to create the office of Secretary to the Cabinet for Federal-Provincial Relations and to amend Federal-Provincial Fiscal Arrangements. Measures have been passed to protect the representation of all provinces in the House of Commons and to improve the representative of the northern territories in Parliament. You accepted your responsibilities by dealing with the financial arrangements for representatives of the Crown, for judges and for legislators. A number of measures relating to the structure of the courts were enacted, including important amendments to the Supreme Court Act. Committees of both Houses considered and made recommendations on the subject of members of Parliament and conflicts of interest. A special joint committee of both Houses considered and made recommendations on employer-employee relations in the public service. The Standing Joint Committee on Regulations and other Statutory Instruments has not only effectively taken up its responsibilities under the Statutory Instruments Act, but also has embarked on an important study of government policy on the release of information, the conclusions of which are eagerly anticipated. Both Houses have considered procedural reform and, while progress has been made, both are to be encouraged to continue the work in future sessions.

You have made several amendments to the criminal law, including the enactment of a permanent law with regard to the punishment for murder and certain other offences.

Several of the statutes enacted have been designed to protect the equality of men and women in the letter and administration of the law.

During this session, a new Citizenship Act was passed and a measure to regulate the import and export of articles of cultural value was enacted. The Canadian Radio-Television and Telecommunications Commission was created and a measure was enacted to assist the development of Canadian publications and broadcasting.

Almost all of the legislation that was forecast in the Speech from the Throne opening this session on September 30, 1974 has been enacted. This, however, constitutes merely half of the legislation that Parliament has adopted in the session. Parliament has indeed produced a remarkably great amount of legislation. Nonetheless, the demand for even more continues and Parliament has little time to spare in its effort to meet the needs of the nation.

Members of the House of Commons:

I thank you for the provisions you have made for the service of Canada during the present and the two previous fiscal years.

Honourable Members of the Senate:

Members of the House of Commons:

May Divine Providence continue to bless our country.

The Honourable the Speaker of the Senate then said:

Honourable Members of the Senate:

Members of the House of Commons:

It is the will and pleasure of the Right Honourable the Deputy of His Excellency the Governor General that this Parliament be prorogued until two o'clock in the afternoon this day, Tuesday, the 12th day of October, 1976, to be here holden; and this Parliament is accordingly prorogued until two o'clock in the afternoon this day, Tuesday, the 12th day of October, 1976.

Abbreviations

1r, 2r, 3r	= First, second, third reading
amdts	= amendments
com	= committee
div	= division
m	= motion
neg	= negatived
ref	= referred
rep	= report
r.a.	= royal assent

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2.	Appropriation Act No. 3, 1974	C-31
	November 27, 1974	
3.	Army Benevolent Fund Act amendment	C-17
4.	Canada Pension Plan Act amendment	C-22
5.	Customs Act amendment	S-4
6.	Customs Tariff Act (No. 1) amendment	C-27
7.	Trust Companies Act and Loan Companies Act amendment	S-7
8.	War Veterans Allowance Act and Civilian War Pensions Allowances Act amendment	C-4

Acts passed during the Session - *Continued*

PUBLIC ACTS - *Continued*

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9.	Immigration Act amendment	S-12
10.	Electoral Boundaries Readjustment Act amendment	C-214
11.	Alberta-British Columbia Boundary Act, 1974	S-13
12.	Fire Losses Replacement Account Act amendment	C-18
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13.	Representation Act, 1974	C-36
14.	Federal Business Development Bank Act	C-14
15.	Indian Oil and Gas Act	C-15
16.	Public Service Employment Act, Public Service Staff Relations Act, Public Service Superannuation Act, and Interpretation Act amendment	C-38
17.	Export Development Act amendment	C-9
18.	Supreme Court Act and Federal Court Act amendment	S-2
19.	Revision of references to Quebec Court of Queen's Bench Act	S-16
20.	Statute Revision Act	S-3
21.	Appropriation Act No. 4, 1974	C-42
22.	Appropriation Act No. 5, 1974	C-45
	February 27, 1975	
23.	Customs Tariff Act (No. 2) amendment	C-39
24.	Excise Tax Act and the Excise Act amendment	C-40
25.	Electoral Boundaries Readjustment Act amendment	C-370
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26.	Statute law relating to Income Tax Act amendment (No. 1)	C-49
27.	Canadian Wheat Board Act amendment	S-6
28.	Northwest Territories Representation Act	C-51
29.	Electoral Boundaries Readjustment Act (Bruce-Grey)	C-228
30.	Electoral Boundaries Readjustment Act (Lafontaine-Rosemount)	C-229
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33.	Canada Business Corporations Act	C-29
34.	Prairie Grain Advance Payments Act (No. 1) amendment	C-10
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38.	National Housing Act amendment	C-46
	April 24, 1975	
39.	St. Lawrence Ports Operations Act, 1975	C-59
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41.	Railway Act amendment	C-48
42.	Civil Service Insurance Act amendment	C-26
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45.	Farm Credit Act amendment	C-34
46.	Fort-Falls Bridge Authority Act amendment	C-367
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47.	Petroleum Administration Act	C-32
48.	Judges Act and certain other Acts for related purposes and in respect of the reconstitution of the Supreme Courts of Newfoundland and Prince Edward Island Act amendment	C-47
49.	Canadian Radio-Television and Telecommunications Commission Act	C-5
50.	Cultural Property Export and Import Act	C-33
51.	Northern Canada Power Commission Act amendment	C-13
52.	Territorial Lands Act amendment	S-20
53.	British North America Acts, 1867 to 1975 Act amendment	C-3
54.	Two-Price Wheat Act	C-19
55.	Ocean Dumping Control Act	C-37
56.	Salaries Act amendment	C-24
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58.	Old Age Security Act amendment	C-62
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65.	Federal-Provincial Fiscal Arrangements Act 1972 amendment	C-57
66.	Statute Law (Status of Women) 1974 Act amendment	C-16
67.	Public Service Staff Relations Act amendment	C-70
68.	Olympic (1976) Act amendment	C-63
69.	Privileges and Immunities (International Organization) Act amendment	S-25
70.	Customs Tariff Act (No. 3) amendment	C-67

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85.	Agricultural Products Cooperative Marketing Act amendment	C-21
86.	Animal Contagious Diseases Act amendment	C-28
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87.	Western Grain Stabilization Act	C-41
88.	Halifax Relief Commission Pension Continuation Act	C-78
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C-34 Farm Credit
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C-71 Criminal Law Amendment (No. 1) 1975
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C-78 Halifax Relief Commission Pension Continuation
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C-80 Supplementary Borrowing Authority
C-81 Senate and House of Commons
C-84 Criminal Law Amendment (No. 2) 1976
C-85 Temporary Immigration Security
C-86 Statute Law (Veterans and Returned Soldiers' Insurance)
C-88 Wheat Board (No. 2)
C-89 Anti-Inflation (No. 2)
C-90 Appropriation No. 1, 1976
C-91 Appropriation No. 2, 1976
C-92 Compensation for Former Prisoners of War
C-93 Appropriation No. 3, 1976

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C-94 Appropriation No. 4, 1976
C-214 Electoral Boundaries Readjustment
C-223 Criminal Code (the National Flag of Canada)
C-228 Electoral Boundaries Readjustment (Bruce)
C-229 Electoral Boundaries Readjustment (Lafontaine)
C-365 Electoral Boundaries Readjustment (Berthier)
C-367 Fort-Falls Bridge Authority
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S-2 Supreme Court
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S-4 Customs
S-5 Aircraft Registry
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S-7 Federal Trust Companies and Loan Companies
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S-11 British Columbia Telephone Company
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S-13 Alberta-British Columbia Boundary
S-14 Criminal Code (control of weapons and firearms)
S-15 Industry, Trade and Commerce Department
S-16 Statutes of Canada (to revise references to Court of Queen's Bench)
S-17 Explosives
S-18 International Air Transport Association
S-19 Food and Drugs, Narcotic Control and Criminal Code
S-20 Territorial Lands
S-21 Criminal Code (commutation of death sentence)
S-22 Senate (Intersessional Authority)
S-23 National Defence and Criminal Code (total abolition of capital punishment)
S-24 National Commercial Bank of Canada (Canadian Commercial and Industrial Bank)
S-25 Privileges and Immunities (International Organizations)
S-26 Alliance Security and Investigation, Ltd.
S-27 Canadian Overseas Telecommunication Corporation
S-28 Royal Canadian Legion
S-29 Eastern Canada Savings and Loan Company and Central & Nova Scotia Trust Company
S-30 Continental Bank of Canada
S-31 Quarantine
S-32 Income Tax Conventions
S-33 United Grain Growers Limited
S-34 Aeronautics
S-35 Proprietary or Patent Medicine and Trade Marks (No. 2)

Bills, Private, Commons

Marriage Law Exemption (Richard Fritz and Marianne Strass) C-1001. 1r, 1233; 2r, 1233-4; ref to com, 1234; suspension of rule 95, 1234-5; rep without amdt, 1244; 3r, 1251-2, 1257-9; r.a., 1281

Northland Bank C-1002. 1r, 1524; 2r, 1598-1600; ref to com, 1600; suspension of rule 95, 1601; rep without amdt, 1602; 3r, 1619; r.a., 1712

Bills, Private, Senate

Alliance Security & Investigation, Ltd. S-26. 1r, 1022; 2r, 1053-4; ref to com, 1054; rep without amdt, 1074; 3r, 1091; Commons amdt concurred in, 1261; r.a., 1281

British Columbia Telephone Company S-11. 1r, 99; 2r, 132-4; ref to com, 134; rep without amdt, 178; 3r, 194; Commons amdt, 325; concurred in, 338; r.a., 397

Canadian Commercial and Industrial Bank, *see* National Commercial Bank of Canada S-24

Continental Bank of Canada S-30. 1r, 1306; 2r, 1340-5; ref to com, 1345; rep with amdts, 1367-9, 1405-06; m to ref rep back to com, 1406; further rep of com, 1407-08, adopted, 1408; 3r, 1408

Eastern Canada Savings and Loan Company and Central & Nova Scotia Trust Company S-29. 1r, 1293; 2r, 1307-08; ref to com, 1308; rep with amdts, (French text only), 1355, 1372; 3r, 1373; r.a., 1712

Honey Bear Brewing Corporation Limited, refund of fees on proposed bill, 1782

International Air Transport Association S-18. 1r, 265; 2r, 301-03; ref to com, 303; rep without amdt, 373; 3r, 382; r.a., 581

National Commercial Bank of Canada S-24. 1r, 923; 2r, 935-6, 958-62, 973-4; ref to com, 974; rep with amdts, 1057, 1062-3; 3r, 1063; r.a., 1281

Royal Canadian Legion S-28. 1r, 1180; 2r, 1194-6, 1205-07; ref to com, 1207; suspension of rule 95, 1207-09; rep without amdt, 1211-12; 3r, 1212; r.a., 1281

United Grain Growers Limited bill S-33. 1r, 1914; 2r, 1924-5, 1930, 1946-7; ref to com, 1947; rep without amdt, 2003; 3r, 2009; r.a., 2207

Bills, Public, Commons

Agricultural Products Cooperative Marketing C-21. 1r, 1617-18; 2r, 1630-2; 3r, 1640; r.a., 1712

Agricultural Stabilization C-50. 1r, 1164; 2r, 1190-4; ref to com, 1194; rep without amdt, 1212; 3r, 1212; r.a., 1281

Animal Contagious Diseases C-28. 1r, 1618; 2r, 1632-5; ref to com, 1635; rep without amdt, 1653; 3r, 1666; r.a., 1712

Anti-Inflation (No. 1) C-73. 1r, 1500-01; 2r, 1503-13, 1524-37, 1538-45, 1550-64; ref to com, 1564; rep without amdt but with observations, 1573; m for 3r, 1573, m in amdt, 1573-81, neg, 1581; m for 3r cont, 1581-3; further m in amdt, 1583-7, neg, 1587; 3r, 1587; r.a., 1617

Anti-Inflation (No. 2) C-89. 1r, 2076; 2r, 2098, 2104-06, 2111-15, 2133-9; ref to com, 2139; rep without amdt, 2141; m for 3r, 2150, m in amdt, 2150-1, neg, 2151; 3r, 2151; r.a., 2152

Appropriation No. 3, 1974 C-31. 1r, 192; 2r, 192-3, 198-205; 3r, 213; r.a., 220

Appropriation No. 4, 1974 C-42. 1r, 373; 2r, 379-80, 385-95, 406-10, m to ref bill to com, 410-17, neg, 417; m for 2r agreed to, on division, 417; m for 3r, 426-30, m that bill be ref to com, 430-4, neg, 434; 3r agreed to, on division, 435; r.a., 467

Appropriation No. 5, 1974 C-45. 1r, 402; 2r, 424-5, 440-1, 444-6; 3r, 446; r.a., 467

Appropriation No. 1, 1975 C-54. 1r, 703; 2r, 703-07, 715-23; 3r, 733-6; r.a., 740

Appropriation No. 2, 1975 C-55. 1r, 707; 2r, 707-08, 736-9; 3r, 739; r.a., 740

Appropriation No. 3, 1975 C-64. 1r, 1097; 2r, 1129-32; 3r, 1133; r.a., 1134

Appropriation No. 4, 1975 C-79. 1r, 1571; 2r, 1602-15; 3r, 1615; r.a., 1617

Appropriation No. 1, 1976 C-90. 1r, 1954; 2r, 1972-3, 1976-82; 3r, 1982-4; r.a., 2002

Appropriation No. 2, 1976 C-91. 1r, 1965-6; 2r, 1972-3, 1984-91; 3r, 1991-2; r.a., 2002

Appropriation No. 3, 1976 C-93. 1r, 2252; 2r, 2259, 2286-8; 3r, 2288; r.a., 2301

Appropriation No. 4, 1976 C-94. 1r, 2252; 2r, 2259; 3r, 2267-9; r.a., 2301

Army Benevolent Fund C-17. 1r, 280; 2r, 303-04; 3r, 307; r.a., 314

British North America Acts 1867 to 1975 C-3. 1r, 1005; 2r, 1054, 1060-2; 3r, 1081; r.a., 1095

Canada Business Corporations C-29. 1r, 472; 2r, 489-98; ref to com, 498; rep with amdts, 666-71, 685; 3r, 685; Commons concurrence in Senate amdts, 712; r.a., 731

Canada Pension Plan C-22. 1r, 242; 2r, 249-52, 277-9; ref to com, 279; rep without amdt, 300; 3r, 307; r.a., 314

Canadian Radio-Television and Telecommunications Commission C-5. 1r, 803; 2r, 829-32, 841-3, 849-51; ref to com, 851; rep without amdt, 998; 3r, 1007; r.a., 1095

Canadian Sovereignty Symbol C-373. 1r, 663; 2r, 685-8, 709; 3r, 714; r.a., 731

Canadian Wheat Board, *see* Wheat Board

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Citizenship C-20. 1r, 2058; 2r, 2071-5, 2077-9, 2087-96; ref to com, 2096; rep without amdt, 2242; m for 3r, 2264-5, m in amdt, 2265-7, 2279-86, 2289, m in amdt neg, 2289-90, debate on 3r cont, 2290-3, 2309-13, 2323-4, 2336-7, 2348-50; m in amdt that bill be ref back to com, neg, 2350; 3r, 2350; r.a., 2450

Civil Service Insurance C-26. 1r, 712; 2r, 766-7, 770; 3r, 775; r.a., 832

Combines Investigation C-2. 1r, 1283; 2r, 1293-6, 1308-12; ref to com, 1312; rep without amdt but with observations, 1571, 1589-95; 3r, 1598; r.a., 1617

Compensation for Former Prisoners of War C-92. 1r, 2014; 2r, 2038-43; 3r, 2043; r.a., 2096

Criminal Code (the National Flag of Canada) C-223. 1r, 663; 2r, 710-11; m for 3r, 714-15, 740; m in amdt that bill be ref to com, agreed, 740

Criminal Law Amendment (No. 1) 1975 C-71. 1r, 1714; 2r, 1730-3, 1742-7, 1766-70, 1772-6; ref to com, 1776; rep with amdts, 1867-8, 1884-6; m for 3r, 1893, m in amdt, 1893-9, m in amdt to amdt, 1899-1900, neg, m for 3r as amended, 1900, 1903-06, further amdt, 1906-08 neg, 1908; 3r, 1908; Commons agreement in Senate amdts, 1974; r.a., 2002

Criminal Law Amendment (No. 2) 1976 C-84. 1r, 2386; 2r, 2386-9; m re disposition of 3r and passage of bill, 2407; 2r cont, 2407-42; question re voting procedure, 2444; 2r cont, 2444-50; 3r, 2450; r.a., 2450

Cultural Property Export and Import C-33. 1r, 712; 2r, 761-6, 768-70, 797-800, 810-13; ref to com, 813; rep with amdts, 848, 908-09; m in amdt adopted, 909-11; 3r, 912; Commons concurrence in Senate amdts, 1005; r.a., 1095

Customs Tariff (No. 1) C-27. 1r, 242; 2r, 262-3, 270-1; ref to com, 271; rep without amdt, 282; 3r, 291; r.a., 314

Customs Tariff (No. 2) C-39. 1r, 472; 2r, 484-5, 486-9; ref to com, 489; rep without amdt, 499; 3r, 508, 514-16; r.a., 581

Customs Tariff (No. 3) C-67. 1r, 1197; 2r, 1209-10, 1214-15; 3r, 1215; r.a., 1281

Electoral Boundaries Readjustment No. 1 C-214. 1r, 325; 2r, 377-8; 3r, 382; r.a., 397

Electoral Boundaries Readjustment No. 2 C-370. 1r, 514; 2r, 526-8, 536-7; ref to com, 537; rep without amdt, 555; 3r. 564; r.a., 581

Electoral Boundaries Readjustment (Berthier) C-365. 1r, 564; 2r, 602-03; 3r, 606; r.a., 656

Electoral Boundaries Readjustment (Bruce) C-228. 1r, 583; 2r, 601; 3r, 606; r.a., 656

Electoral Boundaries Readjustment (Lafontaine) C-229. 1r, 583; 2r, 601-02; 3r, 606; r.a., 656

Environmental Contaminants C-25. 1r, 1348; 2r, 1371-2, 1403-04; ref to com, 1404; rep without amdt, 1437; 3r, 1446; r.a., 1476

Excise Tax C-66. 1r, 1265; 2r, 1267-78; ref to com, 1278; rep without amdt, 1278; 3r, 1278-80; r.a., 1281

Excise Tax and Excise C-40. 1r, 279; 2r, 499-501, 519-20; ref to com, 521; rep without amdt, 570; com observations re unlicensed whosesalers, 570; 3r, 570-3; r.a., 581

Export Development C-9. 1r, 459; 2r, 459-64; 3r, 464; r.a., 467

Farm Credit C-34. 1r, 781; 2r, 788-91, 796-7, 803-07; ref to com, 807; rep with amdt and recommendations, 847-8, 863-5, 880, m in amdt, 880-2, point of order re amdt, Speaker's ruling reserved, 882-8, Speaker's ruling on point of order, 889-90, m for adoption of rep continued, 890-2, m in amdt adopted, 892, main m as amended agreed and rep adopted, 892; 3r, 893; r.a., 899

Federal Business Development Bank C-14. 1r, 348; 2r, 366-71, 417-18; ref to com, 418; rep without amdt, 426; 3r, 444; r.a., 467

Federal-Provincial Fiscal Arrangements C-57. 1r, 1136; 2r, 1175-8, 1180-8; ref to com, 1188; rep without amdt, 1197; 3r, 1214; r.a., 1281

Fire Losses Replacement Account C-18. 1r, 325; 2r, 338, 353; 3r, 366; r.a., 397

Fort-Falls Bridge Authority C-367. 1r, 781; 2r, 855-6; 3r, 867; r.a., 899

Government Annuities Improvement C-75. 1r, 1618; 2r, 1628-30, 1640-1; ref to com, 1641; rep without amdt, 1649; 3r, 1706; r.a., 1712

Halifax Relief Commission Pension Continuation C-78. 1r, 1714; 2r, 1717-18, 1721-3; 3r, 1730; r.a., 1792

Income Tax (No. 1) C-49. 1r, 583; 2r, 606-14, 616-21, 627-40; ref to com, 640; rep without amdt, 645; m for 3r, 645-9; m in amdt, neg, 649-56; 3r, 656; r.a., 656

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Income Tax (No. 2) C-65. 1r, 1403; 2r, 1417-22, 1439-42; ref to com, 1442; rep without amdt, 1454; 3r, 1459; r.a., 1476

Income Tax (No. 3) C-58. 1r, 1792; 2r, 1836-45, 1848, 1862-6, 1869-73, 1881-3, 1908-10, 1925-9, 1931-3, 1938-46, 1955-8, 1992-2002, 2004-06, 2014-15, 2024-33; ref to com, 2033; rep with amdts, 2252-5, 2269-75, 2293-2301, 2313-15, 2325-30, 2337, m to ref rep back to com, 2337, agreed, 2338; further rep of com without amdt, 2389-98, 2401-05; 3r, 2398-2400; r.a., 2450

Indian Oil and Gas C-15. 1r, 325; 2r, 337-8, 351-3; ref to com, 353; rep without amdt, 402; 3r, 426; r.a., 467

Judges Act and Certain Acts related to the Supreme Courts of Newfoundland and Prince Edward Island C-47. 1r, 1005; 2r, 1040-3, 1051-3; ref to com, 1053; rep without amdt, 1066; 3r, 1080; r.a., 1095

King George V Cancer Fund Winding-Up C-76. 1r, 1467; 2r, 1480-3; 3r, 1486; r.a., 1617

Law Reform Commission C-43. 1r, 583; 2r, 624-5, 643-4, 660-1; ref to com, 661; rep without amdt, 759; 3r, 768; r.a., 832

Lieutenant Governors Superannuation C-23. 1r, 1304; 2r, 1337-40; ref to com, 1340; rep without amdts but with observations, 1369; 3r, 1370; r.a., 1476

Medical Care C-68. 1r, 2307; 2r, 2317-18, 2338-44, 2357-9, 2364-6; bill committed to Committee of the Whole, Hon. Alan A. Macnaughton in the Chair, Hon. Marc Lalonde, Minister of Health and Welfare, taking part in debate, 2366-75; rep without amdt, 2375; 3r, 2378; r.a., 2450

National Housing (No. 1) C-46. 1r, 742; 2r, 743-8; bill committed to Committee of the Whole, Senator Bourget in the Chair, Minister of State for Urban Affairs Hon. B. Danson taking part in debate, 748-57; rep without amdt, 757; 3r, 757; r.a., 758

National Housing (No. 2) C-77. 1r, 1667; 2r, 1667-73; bill committed to Committee of the Whole, Senator Macnaughton in the Chair, Minister of State for Urban Affairs Hon. B. Danson taking part in debate, 1673-81; rep without amdt, 1681; 3r, 1681; r.a., 1712

Northern Canada Power Commission C-13. 1r, 795; 2r, 807-08, 813-15; ref to com, 815; rep with amdt, 840, 851; 3r, 855; Commons concurrence in Senate amdt, 1005; r.a., 1095

Northwest Territories Representation C-51. 1r, 583; 2r, 594-5, 622-3; 3r, 642; r.a., 656

Ocean Dumping Control C-37. 1r, 1005; 2r, 1038-40, 1049-51; ref to com, 1051; rep without amdt, 1088; 3r, 1088; r.a., 1096

Old Age Security, Old Age Assistance C-62. 1r, 1087; 2r, 1101-03, 1123-6; 3r, 1126; r.a., 1134

Olympic C-63. 1r, 1174; 2r, 1188-90, 1198-1205; ref to com, 1205; rep without amdt, 1211; 3r, 1211; r.a., 1281

Petro-Canada C-8. 1r, 1174; 2r, 1178-9, 1215-18; ref to com, 1218; rep without amdt, 1244; 3r, 1251; r.a., 1281

Petroleum Administration C-32. 1r. 847; 2r, 861-3, 902-07, 012-16, 925-7, 935-6; ref to com, 936; rep with amdts, 981-2, 1002; m to amend French version, 1013; 3r, 1013; Commons concurrence in Senate amdts, 1034; r.a., 1095

Prairie Grain Advance Payments (No. 1) C-10. 1r, 583; 2r, 595-601, 614-15, 621-2; ref to com, 622; rep without amdt, 684; 3r, 709; r.a., 731

Prairie Grain Advance Payments (No. 2) C-53. 1r, 1136; 2r, 1156-7, 1166-8; ref to com, 1168; rep without amdt, 1180; 3r, 1198; r.a., 1281

Public Service Employment, Staff Relations, Superannuation, Interpretation C-38. 1r, 464; 2r, 464-6; 3r, 466-7; r.a., 467

Public Service Staff Relations C-70. 1r, 1235; 2r, 1235-7, 1244-6; 3r, 1251; r.a., 1281

Railway C-48. 1r, 712; 2r, 760-1; ref to com, 761; rep without amdt, 795; 3r, 803; r.a., 832

Regional Development Incentives C-74. 1r, 1524; 2r, 1601-02, 1619-22; ref to com, 1622; rep without amdt, 1639; 3r, 1658-9; r.a., 1712

Representation 1974 C-36. 1r, 402; 2r, 420-4, 435-40; ref to com, 440; rep without amdt, 443; 3r, 443; r.a., 467

St. Lawrence Ports Operations C-59. 1r, 817; 2r, 817-27; 3r, 827; r.a., 832

Salaries C-24. 1r, 1065; 2r, 1081, 1091-5; 3r, 1095; r.a., 1096

Senate and House of Commons, Salaries and Parliamentary Secretaries C-44. 1r, 847; 2r, 856-61, 868-80; 3r, 889; r.a., 899

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Senate and House of Commons, Supplementary Retirements Benefits C-81. 1r, 2177; 2r, 2186-7, 2193-6; ref to Committee of the Whole, 2196; considered in Committee of the Whole, Senator Macnaughton in the Chair, 2203-07; rep without amdt, 2207; 3r, 2207; r.a., 2207

Statute Law (Status of Women) 1974 C-16. 1r, 1065; 2r, 1103-07; m to amend French version, 1122-3; 3r, 1123; Commons concurrence in Senate amdt, 1136; r.a., 1281

Statute Law (Superannuation) C-52. 1r, 1706; 2r, 1706-11; 3r, 1711; r.a., 1712

Statute Law (Veterans and Civilian War Allowances) C-4. 1r, 242; 2r, 267-70; ref to com, 270; rep without amdt, 272; 3r, 281; r.a., 314

Statute Law (Veterans and Returned Soldiers' Insurance) C-86. 1r, 1856; 2r, 1883-4, 1910-11; 3r, 1917; r.a., 2002

Supplementary Borrowing Authority C-80. 1r, 1638; 2r, 1641-4; ref to com, 1644; rep without amdt, 1649; 3r, 1649-50; r.a., 1712

Temporary Immigration Security C-85. 1r, 1813; 2r, 1820, 1827-36; ref to com, 1836; rep without amdt, 1874; 3r, 1893; r.a., 2002

Two-Price Wheat C-19. 1r, 900; 2r, 928-30, 942-4; ref to com, 944; rep without amdt but with recommendations, 1088-90; 3r, 1090; r.a., 1095

Unemployment Insurance C-69. 1r, 1686; 2r, 1686-95; bill committed to Committee of the Whole, Senator Macnaughton in the Chair, Minister of Manpower and Immigration Hon. Robert K. Andras taking part in debate, 1695-1700; m to amend clause 6 not carried, 1700, debate cont, 1700-06; 3r, 1706; r.a., 1712

West Coast Grain Handling Operations C-12. 1r, 76; 2r, 77-93; 3r, 93-94; r.a., 95

West Coast Ports Operations 1975 C-56. 1r, 723; 2r, 724-30; 3r, 730; r.a., 731

Western Grain Stabilization C-41. 1r, 1714; 2r, 1723-6, 1735-8; ref to com, 1738; rep without amdt, 1756; 3r, 1766; r.a., 1792

Wheat Board (No. 2) C-88. 1r, 2260; 2r, 2315-17, 2330-3; ref to com, 2333; rep without amdt, 2356; 3r, 2356-7; r.a., 2450

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Aeronautics S-34. 1r, 2103; 2r, 2124-5, 2130-2; ref to com, 2132; rep without amdt, 2141; 3r, 2141; r.a., 2207

Aircraft Registry S-5. 1r, 12; 2r, 172-4; ref to com, 174; rep with recommendation that bill be not proceeded with, 980-1, 999-1002; bill removed from Order Paper, 1002

Alberta-British Columbia Boundary S-13. 1r, 136; 2r, 219, 223-5; 3r, 225; Commons amdt, 326, concurred in, 336-7; r.a., 397

Canadian Overseas Telecommunication Corporation S-27. 1r, 1034; 2r, 1062, 1067; 3r, 1080; r.a., 1617

Canadian Wheat Board, *see* Wheat Board

Criminal Code (commutation of death sentence) S-21. 1r, 443; 2r, 528-31, 557-62, 574-5, 587-91, 658-60, 688-92, 937-40; m in amdt that subject matter be ref to Legal and Constitutional Affairs Committee, 940-1, 974-5, 982-3, Order stands, 1157-8, 1168-9, 1459-60, Order discharged and bill withdrawn, 1733

Criminal Code (control of weapons and firearms) S-14. 1r, 193; 2r, 293-5; ref to com, 295

Customs S-4. 1r, 12; 2r, 131, 167-9; ref to com, 169; rep without amdt, 213; 3r, 222; r.a., 314

Explosives S-17. 1r, 243; 2r, 263-4, 271-2; ref to com, 272; rep without amdt, 280; 3r, 291; r.a., 1134

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